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Bill 1

An Act to amend the Execution Act

The Hon. I. Scott
Attorney General



1st Reading April 28th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of this Bill is to amend the *Execution Act* to provide that a writ of execution binds land after it is received and recorded by the sheriff. The Act now provides that a writ of execution binds land when it is received by the sheriff.

Bill 1

1987

An Act to amend the Execution Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 10 (1) of the *Execution Act*, being chapter 146 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(1) Subject to the *Land Titles Act* and to section 11, a writ of execution binds the goods and lands against which it is issued from the time it has been received for execution and recorded by the sheriff.

Writs against
lands and
goods
R.S.O. 1980,
c. 230

(1a) Notwithstanding subsection (1), no writ of execution against goods other than bills of sale and instruments in the nature of chattel mortgages prejudices the title to such goods acquired by a person in good faith and for valuable consideration unless such person at the time of acquiring title had notice that such writ or any other writ by virtue of which the goods of the execution debtor might be seized or attached has been delivered to the sheriff and remains in the sheriff's hands unexecuted.

Exception

(2) Subsection 10 (2) of the said Act is repealed and the following substituted therefor:

(2) The sheriff shall keep an index or a book in which shall be entered a record of all writs and renewals received.

Index to be
kept

2. Subsection 11 (2) of the said Act is amended by striking out "filed" in the fifth line and inserting in lieu thereof "received for execution and recorded by the sheriff".

3. This Act comes into force on the day it receives Royal Assent.

Commencement

4. The short title of this Act is the *Execution Amendment Act, 1987*.

Short title

Bill 2

An Act to amend the Proceedings Against the Crown Act

The Hon. I. Scott
Attorney General



1st Reading April 29th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Section 25 of the Act permits garnishment against the Crown. The amendment provides that the garnishment is effective against only the amounts payable to the debtor by the administrative unit served with notice of garnishment. The amendment also enlarges the authority to make regulations in order to provide for a form of statement of particulars, to provide for the method of service and to extend the response time to an additional period of not more than thirty days.

Bill 2

1987

An Act to amend the Proceedings Against the Crown Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 25 (2a) of the *Proceedings Against the Crown Act*, being chapter 393 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1985, chapter 6, section 16, is amended by adding at the end thereof “subject to section 7 of the *Wages Act*”.

(2) Subsection 25 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 88, section 1 and amended by the Statutes of Ontario, 1985, chapter 6, section 16, is repealed and the following substituted therefor:

(3) A garnishment is effective against the Crown only in respect of amounts payable on behalf of the administrative unit served with notice of garnishment to the person named in the notice of garnishment. Limitation

(4) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the method of service on the Crown of notices of garnishment in place of the method prescribed in section 14;
- (b) providing that a notice of garnishment issued against the Crown is not effective unless a statement of particulars in the prescribed form is served with the notice of garnishment;
- (c) providing that a notice of garnishment issued against the Crown shall be deemed to be served on the day that is the number of days specified in the regulation after the actual date of service or after the effective date of service under the rules of the

court that issued the notice of garnishment, as the case may be, but the regulation shall not specify more than thirty days as the number of days;

- (d) prescribing the form of statement of particulars for the purposes of this section.

Interpretation

R.S.O. 1980,
cc. 106, 235

(5) In this section, “administrative unit” means a Ministry of the Government of Ontario, a Crown agency within the meaning of the *Crown Agency Act* or the Office of the Assembly under the *Legislative Assembly Act*.

Commence-
ment

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is the *Proceedings Against the Crown Amendment Act, 1987*.

Bill 4

An Act to amend the Barristers Act

The Hon. I. Scott
Attorney General



1st Reading April 29th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTIONS 1 and 2. The provisions repealed provide for the appointment of Queen's counsel and their precedence in the courts.

SECTION 3. The common law office of Queen's counsel and the use of the title in the practice of law in Ontario are abolished.

Bill 4

1987

An Act to amend the Barristers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of the *Barristers Act*, being chapter 38 of the Revised Statutes of Ontario, 1980, is repealed.

2. Subsection 3 (3) of the said Act is repealed.

3. The said Act is amended by adding thereto the following sections:

4.—(1) The office of Her Majesty's counsel learned in the law, or Queen's counsel, is abolished. Q.C.'s
abolished

(2) All letters patent appointing members of the bar of Ontario to be Her Majesty's counsel learned in the law are cancelled. Patents
cancelled

5.—(1) No person shall represent himself or herself to be one of Her Majesty's counsel learned in the law, or Queen's counsel, or other like designation, in the practice of law in Ontario. Use of
designation

(2) Subsection (1) comes into force on the 1st day of January, 1988. Effective
date

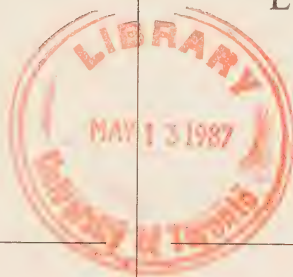
4. This Act comes into force on the day it receives Royal Assent. Commence-
ment

5. The short title of this Act is the *Barristers Amendment Act, 1987*. Short title

Bill 5

**An Act permitting
Trustees and
other Persons
to dispose of
South African Investments**

The Hon. I. Scott
Attorney General



1st Reading April 29th, 1987
2nd Reading
3rd Reading
Royal Assent

Projet de loi 5

**Loi permettant
aux fiduciaires et
à d'autres personnes
d'aliéner
les placements sud-africains**

L'honorable I. Scott
procureur général

1^{re} lecture 29 avril 1987
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The purpose of the Bill is to authorize trustees of trusts and persons responsible for managing and investing the assets of registered charities and pension funds to dispose of South African investments without committing a breach of duty even if the value of the property they manage decreases as a result. (Under the present law, these persons have a duty to invest the property they manage in reasonable and proper investments without consideration of moral issues.)

The Bill provides that a trustee of a trust or person responsible for managing and investing the assets of a registered charity or pension fund who disposes of a South African investment, acting in a reasonably prudent manner, does not commit a breach of duty even if as a result the value of the property decreases.

However, trustees and persons responsible for pension funds are required, before they dispose of a South African investment, to obtain the consent of a majority of the identifiable beneficiaries (if there are no more than 100 identifiable beneficiaries) or to satisfy themselves that a majority of the identifiable beneficiaries would consent (if there are more than 100).

“South African investment” is defined in subsection 1 (1).

NOTES EXPLICATIVES

Le projet de loi permettrait aux fiduciaires de fiducies et aux personnes chargées de la gestion et du placement de biens appartenant aux organismes de charité enregistrés et aux caisses de retraite d'aliéner des placements sud-africains sans manquer à leur devoir, même si la valeur des biens qu'ils gèrent diminue en raison de cette aliénation. (La loi existante impose à ces personnes le devoir d'investir les biens qu'ils gèrent dans des placements raisonnables et appropriés, sans égard aux questions d'ordre moral.)

Le projet de loi prévoit que le fiduciaire d'une fiducie ou la personne responsable de la gestion et du placement des biens d'un organisme de charité enregistré ou d'une caisse de retraite qui aliène un placement sud-africain en faisant preuve d'une prudence normale ne manque pas à son devoir même si la valeur des biens diminue en raison de cette aliénation.

Avant d'aliéner un placement sud-africain, il incombe cependant aux fiduciaires et aux personnes responsables des caisses de retraite d'obtenir le consentement d'une majorité des bénéficiaires identifiables (si leur nombre ne dépasse pas 100) ou de s'assurer qu'une majorité d'entre eux donneraient leur consentement (si leur nombre est supérieur à 100).

L'expression «placement sud-africain» est définie au paragraphe 1 (1).

Bill 5**1987**

**An Act permitting
Trustees and other Persons
to dispose of South African Investments**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1.—(1) In this Act,

“organisme
de charité
enregistré”
R.S.C. 1952,
c. 148

“registered charity” means a registered charity within the meaning of paragraph 110 (8) (c) of the *Income Tax Act* (Canada);

“Afrique du
Sud”

“South Africa” means the Republic of South Africa;

“placement
sud-africain”

“South African investment” means,

- (a) an investment in shares of a corporation that is incorporated under the laws of South Africa or carries on business in South Africa,
- (b) an investment in shares of a corporation that has a substantial interest in a corporation that is incorporated under the laws of South Africa or carries on business in South Africa,
- (c) an investment in shares of a corporation a substantial interest in which is held by one or more of the following,
 - (i) corporations that are incorporated under the laws of South Africa,
 - (ii) corporations that carry on business in South Africa,

Projet de loi 5

1987

**Loi permettant
aux fiduciaires et à d'autres personnes
d'aliéner les placements sud-africains**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions

«action assortie du droit de vote» Action d'une catégorie des actions d'une compagnie assortie d'un droit de vote absolu ou assortie d'un droit de vote en raison de la survenance d'une éventualité qui s'est produite et se poursuit. «voting share»

«Afrique du Sud» La République d'Afrique du Sud. «South Africa»

«fiduciaire» Fiduciaire d'une fiducie. S'entend en outre d'une personne qui est responsable de la gestion et du placement de biens d'un organisme de charité enregistré ou d'une caisse de retraite. «trustee»

«organisme de charité enregistré» Organisme de charité enregistré au sens de l'alinéa 110 (8) c) de la *Loi de l'impôt sur le revenu* (Canada). «registered charity» S.R.C. 1952, chap. 148

«placement sud-africain» Placement qui, selon le cas : «South African investment»

- a) est effectué dans des actions d'une compagnie qui est constituée en vertu des lois de l'Afrique du Sud ou qui fait affaire en Afrique du Sud;
- b) est effectué dans des actions d'une compagnie qui a une participation importante dans une compagnie qui est constituée en vertu des lois de l'Afrique du Sud ou qui fait affaire en Afrique du Sud;

- (iii) persons who are citizens of South Africa or who ordinarily reside there,
- (d) an investment in shares of a corporation a substantial interest in which is held by a corporation that also holds a substantial interest in another corporation that is incorporated under the laws of South Africa or that carries on business in South Africa,
- (e) an investment in bonds, debentures or other evidences of indebtedness issued or guaranteed by the Government of South Africa or by a corporation whose shares are a South African investment under clause (a), (b), (c) or (d),
- (f) any other investment that has a substantial connection with South Africa;

“fiduciaire” “trustee” means a trustee of a trust and includes a person who is responsible for investing and managing the assets of a registered charity or a pension fund;

“action assortie du droit de vote” “voting share” means a share of a class of shares of a corporation that carries voting rights under all circumstances or under some circumstances that have occurred and are continuing.

Substantial interest (2) A person shall be deemed to have a substantial interest in a corporation if the person beneficially owns or controls 10 per cent or more of the issued and outstanding voting shares in the corporation.

Application of Act **2.** This Act applies to all trusts, registered charities and pension funds.

Trustee not liable R.S.O. 1980, c. 512 **3.** Despite the *Trustee Act* or any other law, a trustee who acts in accordance with this Act and in a reasonably prudent manner does not commit a breach of statutory or other legal duty by,

- (a) disposing of a South African investment even if the value of the property for which the trustee is responsible decreases or fails to increase sufficiently as a result; or

- c) est effectué dans des actions d'une compagnie dans laquelle une ou plusieurs des personnes suivantes ont une participation importante :
 - (i) des compagnies qui sont constituées en vertu des lois de l'Afrique du Sud,
 - (ii) des compagnies qui font affaire en Afrique du Sud,
 - (iii) des citoyens de l'Afrique du Sud ou des personnes qui ont leur résidence ordinaire en Afrique du Sud;
- d) est effectué dans des actions d'une compagnie dans laquelle une participation importante appartient à une compagnie qui a également une participation importante dans une autre compagnie qui est constituée en vertu des lois de l'Afrique du Sud ou qui fait affaire en Afrique du Sud;
- e) est effectué dans des obligations, débentures ou autres titres de créance émis ou garantis par le gouvernement de l'Afrique du Sud ou par une compagnie dont les actions constituent un placement sud-africain aux termes des alinéas a), b), c) ou d);
- f) a, par ailleurs, des liens étroits avec l'Afrique du Sud.

(2) Une personne est réputée avoir une participation importante dans une compagnie si elle est propriétaire bénéficiaire ou qu'elle a le contrôle de 10 pour cent ou plus des actions de la compagnie émises, en circulation et assorties du droit de vote.

Participation importante

2 La présente loi s'applique aux fiducies, aux organismes de charité enregistrés et aux caisses de retraite.

Champ d'application

3 Malgré la *Loi sur les fiduciaires* et toute autre loi, le fiduciaire qui agit conformément à la présente loi et fait preuve d'une prudence normale ne manque pas au devoir que lui impose la loi :

Absence de responsabilité
L.R.O. 1980,
chap. 512

- a) s'il aliène un placement sud-africain, même s'il en résulte une diminution ou une augmentation insuffisante de la valeur des biens dont il a la responsabilité;

(b) refusing to acquire a South African investment.

Definition

4.—(1) In this section, “identifiable beneficiary” means an existing person who can be clearly identified as a beneficiary of a trust or a pension fund and does not include a person who has been declared mentally incompetent.

Consent of
beneficiaries
required

(2) If there are no more than 100 identifiable beneficiaries of a trust or a pension fund, section 3 applies only if a majority of them consent to the intended transaction and their combined beneficial interest in the trust or pension fund comprises more than 50 per cent of its assets.

Idem

(3) If there are more than 100 identifiable beneficiaries of a trust or pension fund, section 3 applies only if the trustee has made inquiries and has reasonable grounds to believe that a majority of them would consent to the intended transaction and that their combined beneficial interest in the trust or pension fund comprises more than 50 per cent of its assets.

Consent
of minor

(4) A person who has lawful custody of an identifiable beneficiary who is less than eighteen years of age may give or refuse consent on the beneficiary’s behalf.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *South African Trust Investments Act, 1987*.

- b) s'il refuse d'investir ces biens dans un placement sud-africain.

4 (1) Dans le présent article, «bénéficiaire identifiable» Définition
s'entend d'une personne existante qui peut être identifiée avec exactitude en tant que bénéficiaire d'une fiducie ou d'une caisse de retraite. Est toutefois exclue la personne qui fait l'objet d'une déclaration d'incapacité mentale.

(2) Lorsqu'une fiducie ou une caisse de retraite n'a pas plus de 100 bénéficiaires identifiables, l'article 3 ne s'applique que si une majorité d'entre eux dont l'intérêt total dans la fiducie ou la caisse dépasse 50 pour cent des biens de la fiducie ou de la caisse donnent leur consentement à l'opération projetée. Consentement des bénéficiaires

(3) Lorsqu'une fiducie ou une caisse de retraite a plus de 100 bénéficiaires identifiables, l'article 3 ne s'applique que si le fiduciaire, s'étant renseigné, a des motifs raisonnables de croire qu'une majorité d'entre eux donneraient leur consentement à l'opération projetée et que leur intérêt total dans la fiducie ou la caisse dépasse 50 pour cent des biens de la fiducie ou de la caisse. Idem

(4) Une personne qui a la garde légitime d'un bénéficiaire identifiable âgé de moins de dix-huit ans peut donner ou refuser le consentement au nom du bénéficiaire. Consentement du mineur

5 La présente loi entre en vigueur le jour où elle reçoit la sanction royale. Entrée en vigueur

6 Le titre abrégé de la présente loi est *Loi de 1987 sur les placements sud-africains détenus en fiducie*. Titre abrégé

Bill 6

An Act to amend the Regional Municipality of Haldimand-Norfolk Act

The Hon. B. Grandmaître

Minister of Municipal Affairs



1st Reading April 29th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purposes of the Bill are to provide for a uniform region-wide assessment update of all real property in the Regional Area on the same market value basis and alter the system of sharing regional and school board requirements among the supporting area municipalities.

The Regional Municipality of Haldimand-Norfolk will be required to establish each year one uniform residential and farm mill rate and one uniform commercial mill rate to apply throughout the Regional Area. Each of the six school boards operating within the Region will also establish uniform residential and farm and uniform commercial mill rates to apply within their particular area of jurisdiction.

The Bill will also require that the portion of payment in lieu of taxes and telephone and telegraph payments received by each area municipality that relates to the requirements of the Regional Municipality and the school boards shall be paid directly to those bodies.

The Bill will also require that the Ministry of Revenue conduct an update of the uniform assessment base at least every four years to reflect subsequent changes in market values.

Bill 6

1987

**An Act to amend the
Regional Municipality of Haldimand-Norfolk Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 76 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

76. In this Part,

Definitions

“commercial assessment” means the total, according to the last returned assessment roll, of,

- (a) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal or regional corporation or local board thereof,
- (b) business assessment, and
- (c) the assessment for mineral lands, pipe lines and railway lands, other than railway lands actually in use for residential and farming purposes;

“public school board” means a public board as defined in paragraph 42a of subsection 1 (1) of the *Education Act*;

R.S.O. 1980,
c. 129

“rateable property” includes business and other assessment made under the *Assessment Act*;

R.S.O. 1980,
c. 31

“regional rating by-law” means a by-law passed under subsection 79 (2);

“residential and farm assessment” means the total assessment for real property according to the last returned assessment roll except the assessments for real property mentioned in clauses (a) and (c) of the definition of “commercial assessment”;

R.S.O. 1980,
c. 129

“separate school board” means a separate school board as defined in paragraph 59a of subsection 1 (1) of the *Education Act*;

“weighted assessment” means for the relevant area the total of,

- (a) the product obtained by multiplying the residential and farm assessment by 85 per cent, and
- (b) the commercial assessment.

2. Section 79 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 45, section 7 and sections 80, 81, 82 and 83 are repealed and the following substituted therefor:

Definition

79.—(1) In this section, “total net regional levy” means a sum sufficient,

- (a) for payment of the estimated current annual expenditures as adopted under section 78; and
- (b) for payment of all debts of the Regional Corporation falling due within the year as well as amounts required to be raised for sinking funds and principal and interest payments or sinking fund requirements in respect of debenture debt of area municipalities for the payment of which the Regional Corporation is liable under this Act,

but excludes those amounts for water and sewage purposes that are to be raised by a special rate or rates in accordance with sections 74 and 75.

Regional
rating by-law

(2) For purposes of raising the total net regional levy, the Regional Council, on or before the 30th day of June in 1987 and on or before the 31st day of March in each subsequent year, shall pass a by-law directing the council of each area municipality to levy a separate rate, as specified in the by-law, on the residential and farm assessment in the area municipality rateable for regional purposes and on the commercial assessment in the area municipality rateable for regional purposes.

(3) The rate that the Regional Council shall direct to be levied on commercial assessment under subsection (2) shall be determined by multiplying the total net regional levy by 1,000 and dividing the product by the total of the weighted assessments for all the area municipalities.

Determi-
nation of
commercial
rate

(4) The rate that the Regional Council shall direct to be levied on the residential and farm assessment under subsection (2) shall be 85 per cent of the rate that it directs to be levied on commercial assessment.

Determi-
nation of
residential
rate

(5) In each year, the council of each area municipality shall levy, in accordance with the regional rating by-law passed for that year, the rates specified in the by-law.

Area muni-
cipality to
adopt rates

(6) The assessment for real property that is exempt from taxation for regional purposes by virtue of any Act or by virtue of a by-law passed by the council of an area municipality under any Act shall not be included when determining the total of the weighted assessments for all the area municipalities for purposes of subsection (3).

Tax exempt
real property

(7) The full value of all rateable property shall be used in determining,

Full value to
be used

(a) the rates to be levied under subsections (3) and (4); and

(b) the assessment on which the levy shall be made under subsection (5),

and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

R.S.O. 1980,
c. 31

(8) A regional rating by-law shall specify the amount to be raised in an area municipality as a result of a levy being made in that area municipality in accordance with the by-law and the by-law,

Instalment
and advance
payments

(a) may require specified portions of that amount to be paid to the treasurer of the Regional Corporation on or before specified dates; and

(b) may provide that the Regional Corporation shall pay interest at a rate to be determined by the Regional Council on any payment required, or portion thereof, made in advance by any area municipality.

- Payment** (9) The amount specified to be raised in an area municipality pursuant to a regional rating by-law shall be deemed to be taxes and is a debt of the area municipality to the Regional Corporation and the treasurer of the area municipality shall pay the amount owing by the area municipality to the treasurer of the Regional Corporation on or before the dates and in the portions specified in the regional rating by-law.
- Default** (10) If an area municipality fails to make any payment, or portion thereof, as provided in the regional rating by-law, the area municipality shall pay to the Regional Corporation interest on the amount in default at the rate of 15 per cent per annum from the due date of the payment, or such lower rate as the Regional Council may by by-law determine, from the date payment is due until it is made.
- Extension of time** (11) The Minister by order may extend the time for passing a regional rating by-law in any year and such an order may be made notwithstanding that the time limit set out in subsection (2) has expired.
- Alternative basis of apportionment** (12) Notwithstanding subsections (3) and (4), in each of the years 1987, 1988 and 1989, the Lieutenant Governor in Council may in a regulation made under section 9a of the *Ontario Unconditional Grants Act*, prescribe an alternative basis on which apportionments are to be made and may prescribe the manner of determining the mill rates to be specified and determined under subsection (2).
R.S.O. 1980, c. 359
- Deeming provision** (13) A basis of apportionment prescribed by the Lieutenant Governor in Council under subsection (12) shall be deemed to have been prescribed under subsection 9a (1) of the *Ontario Unconditional Grants Act* as an alternative to the basis of apportionment that would have been prescribed for the Regional Area under subsection 9a (1) if the Regional Area had not been subject to an assessment update under subsection 82 (1).
- Determination of school rates** **79a.**—(1) In each year, The Brant County Roman Catholic Separate School Board, The Haldimand Board of Education, The Haldimand-Norfolk Roman Catholic Separate School Board, The Norfolk Board of Education, The Oxford County Roman Catholic Separate School Board and The Welland County Roman Catholic Separate School Board shall determine the rates to be levied by the applicable area municipalities to provide the sums required for elementary and secondary school purposes, as the case may be, in that year and shall specify the amount that is to be provided in that year by the application of those rates within an area municipality.

(2) The determinations required by subsection (1) shall be made in accordance with subsection 222 (1) of the *Education Act*. Idem
R.S.O. 1980,
c. 129

(3) On or before the 1st day of March in each year, The Brant County Roman Catholic Separate School Board, The Haldimand Board of Education, The Haldimand-Norfolk Roman Catholic Separate School Board, The Norfolk Board of Education, The Oxford County Roman Catholic Separate School Board and The Welland County Roman Catholic Separate School Board shall direct the council of each applicable area municipality to levy the rates determined by the particular Board in respect of that area municipality under subsection (1) and shall advise the area municipality of the amount of money to be raised by levying those rates. Direction to
area municip-
alities

(4) In each year the council of an area municipality shall levy rates in accordance with the directions under subsection (3) upon all property in the area municipality rateable for public school board or separate school board purposes, as may be appropriate. Area municip-
ality to levy
and collect

(5) The full value of all applicable rateable property shall be used in determining, Full value to
be used

(a) the weighted assessment for each area municipality for purposes of apportioning among the applicable area municipalities the sums required for school purposes by the school boards mentioned in subsection (3);

(b) the rates mentioned in subsection (1); and

(c) the assessment upon which the rates are to be levied under sections 128, 133 and 215 of the *Education Act*, R.S.O. 1980,
c. 129

and notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto. R.S.O. 1980,
c. 31

(6) Notwithstanding subsection (2) and clause (5) (a), in each year, The Haldimand-Norfolk Roman Catholic Separate School Board may, as it considers reasonable, alter the apportionment of its requirements, such that the rates to be levied for elementary school purposes in that area of its jurisdiction that comprised the County of Haldimand on March 31, 1974 will differ from those rates to be levied for elementary school purposes in that area of its jurisdiction that comprised the County of Norfolk on March 31, 1974. School rates
for
Haldimand-
Norfolk

Definitions
in
R.S.O. 1980,
c. 129, s. 220

(7) For the purposes of determining and levying rates under this section, a reference in the *Education Act* to “commercial assessment” or “residential and farm assessment” shall be deemed to be a reference to such assessments as defined in this Part and not as defined in section 220 of that Act.

Non-
application
of
R.S.O. 1980,
c. 129,
s. 219 (2)

(8) Subsection 219 (2) of the *Education Act* does not apply to the determination of rates under subsection (1).

Application
of
R.S.O. 1980,
c. 129

(9) Except as provided in this section, the *Education Act* continues to apply to the levying of rates and collecting of taxes for each public school board and separate school board having jurisdiction in part of the Regional Area.

Definitions

79b.—(1) In this section,

R.S.O. 1980,
c. 302

“area municipality levy” means the amount required for area municipality purposes under section 164 of the *Municipal Act* including the sums required for any board, commission or other body, but excluding those amounts required to be raised for regional and school purposes;

“special area municipality levy” means an amount to be raised by an area municipality that is not included in the area municipality levy, but excluding those amounts required to be raised for regional and school purposes.

Area municipi-
pality levies

(2) The council of each area municipality, in each year in accordance with subsections (3) and (4), shall levy separate rates on the whole of the rateable commercial assessment and on the whole of the rateable residential and farm assessment in respect of the area municipality levy and the special area municipality levy.

Determi-
nation of
commercial
rates

(3) The rates to be levied in each year, on commercial assessment for each separate levy specified in subsection (2), shall be determined by multiplying the sum required for each such levy by 1,000 and dividing the product,

- (a) by the weighted assessment for the area municipality, in the case of an area municipality levy; and
- (b) by the weighted assessment determined on the basis of the assessment that is rateable for the purpose of raising the special area municipality levy, in the case of a special area municipality levy.

(4) The rates to be levied in each year, on residential and farm assessment for each separate levy specified in subsection (2), shall be 85 per cent of the rate to be levied on commercial assessment in accordance with subsection (3).

Determi-
nation of
residential
rates

(5) Section 158 of the *Municipal Act* and section 7 of the *Ontario Unconditional Grants Act* do not apply to an area municipality.

Non-
application
of
R.S.O., 1980,
c. 302, s. 158
and c. 359,
s. 7

(6) A reference in any other Act to a levy by a local municipality under section 158 of the *Municipal Act* shall, with respect to an area municipality, be deemed to be a reference to a levy under this section.

Area muni-
cipality levy

(7) The assessment for real property that is exempt from taxation for area municipality purposes by virtue of any Act or by virtue of a by-law passed by the council of an area municipality under any Act shall not be included when determining the weighted assessment for purposes of clause (3) (a) or (b).

Tax exempt
real property

79c.—(1) The Regional Council, before the adoption of the estimates for the year, may by by-law requisition from each area municipality a sum not exceeding 50 per cent of the amount that under subsection 79 (8) was, in the regional rating by-law for the preceding year, specified to be raised in the particular area municipality and subsections 79 (8), (9) and (10) apply with necessary modifications to the amount requisitioned.

Interim
financing,
Regional
Council

(2) The amount of any requisition made under subsection (1) in any year upon an area municipality shall be deducted when determining the amount of the portions to be paid in that year by the area municipality to the treasurer of the Regional Corporation under the regional rating by-law authorized by clause 79 (8) (a).

Final
instalment
reduced

79d.—(1) The council of an area municipality may for any year, before the adoption of the estimates for the year, levy such rates as it may determine on the rateable commercial assessment and on the rateable residential and farm assessment in the area municipality.

Interim
financing,
area muni-
cipalities

(2) A by-law for levying rates under subsection (1) shall be passed in the year that the rates are to be levied or may be passed in December of the preceding year if it provides that it does not come into force until a specified day in the following year.

By-law in
December of
preceding
year

Determi-
nation of
rate

(3) The rate that may be levied on any assessment under subsection (1) shall not exceed 50 per cent of the total of the rates that were levied or would have been levied on that assessment for all purposes in the preceding year.

Assessment
roll

(4) If the assessment roll for taxation in the current year has not been returned, the rate levied under subsection (1) may be levied on the assessment according to the assessment roll used for taxation purposes in the preceding year.

Interim levy
deducted
from final
levy

(5) The amount of any levy made on an assessment under subsection (1) shall be deducted from the total amount levied on that assessment for that year under sections 79, 79a and 79b.

Interim levy
in excess of
final levy

(6) Where the taxes levied on an assessment for real property or on a business assessment under this section exceed the taxes to be levied on that assessment for the year under sections 79, 79a and 79b, the treasurer of the area municipality shall, not later than twenty-one days following the giving of a notice of demand of taxes payable, refund to the person assessed that portion of the taxes paid in excess of the amount payable for the year pursuant to a levy made under sections 79, 79a and 79b.

Application
of
R.S.O. 1980,
c. 302

(7) The provisions of the *Municipal Act* with respect to the levy of rates and the collection of taxes apply with necessary modifications to the levy of rates and collection of taxes under this section.

Power of
Minister

79e. Where a direction has been made under subsection 82 (1) that a new assessment roll be returned for taxation in the current year, the Minister by order,

- (a) may prescribe the maximum sum that may be requisitioned from each area municipality under subsection 79c (1); and
- (b) may prescribe the maximum rates that may be levied by the council of each area municipality under subsection 79d (1).

Definitions

80.—(1) In this section,

“payment in lieu of taxes” means an amount that an area municipality is eligible to receive under,

R.S.O. 1980,
c. 31

- (a) subsection 26 (3), (4) or (5) of the *Assessment Act*,

R.S.O. 1980,
c. 209

- (b) subsection 7 (6) of the *Housing Development Act*,

but not including that portion payable to a school board in accordance with subsection 7 (10) of that Act,

- (c) section 160 and subsection 160a (3) of the *Municipal Act*, R.S.O. 1980,
c. 302
- (d) subsection 4 (1), (2) or (3) of the *Municipal Tax Assistance Act*, R.S.O. 1980,
c. 311
- (e) section 42 of the *Ontario Water Resources Act*, R.S.O. 1980,
c. 361
- (f) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act, R.S.O. 1980,
c. 384
- (g) subsection 133 (6) of this Act,
- (h) section 10 or 11 of the *Trees Act*, R.S.O. 1980,
c. 510
- (i) the *Municipal Grants Act, 1980* (Canada), or 1980-81-82-
83,
c. 37 (Can.)
- (j) any Act of Ontario or of Canada or any agreement where the payment is from any government or government agency and is in lieu of taxes on real property or business assessment, but not including a payment referred to in section 498 of the *Municipal Act*; R.S.O. 1980,
c. 302

“taxes for local purposes” means the taxes levied by an area municipality for local purposes under subsection 79b (2), excluding any adjustments under section 32 or 33 of the *Assessment Act*;

R.S.O. 1980,
c. 31

“taxes for regional purposes” means the sum of the taxes levied by an area municipality for regional purposes under subsection 79 (2) and in respect to an urban service area established under sections 74 and 75, excluding any adjustments under section 32 or 33 of the *Assessment Act*;

“total taxes for all purposes” means the sum of the taxes for local purposes, the taxes for regional purposes and the taxes levied by the area municipality for school purposes under section 79b, excluding any adjustments under section 32 or 33 of the *Assessment Act*.

(2) Where an area municipality is eligible to receive a payment in lieu of taxes for any year, it shall pay to the treasurer of the Regional Corporation a portion equal to the amount

Area municipalities to share payments in lieu of taxes

obtained by multiplying the amount that the area municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for regional purposes for the year by the total of,

- (a) the taxes for local purposes for the year; and
- (b) the taxes for regional purposes for the year.

Sharing of
certain
payments

(3) Notwithstanding subsection (2), if an area municipality is eligible to receive a payment in lieu of taxes for any year under,

R.S.O. 1980,
c. 31

- (a) subsection 26 (3), (4) or (5) of the *Assessment Act*;

R.S.O. 1980,
c. 361

- (b) section 42 of the *Ontario Water Resources Act*;

R.S.O. 1980,
c. 384

- (c) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act;

- (d) subsection 133 (6) of this Act;

R.S.O. 1980,
c. 510

- (e) section 10 or 11 of the *Trees Act*; or

1980-81-82-
83,
c. 37 (Can.)

- (f) the *Municipal Grants Act, 1980* (Canada),

and the calculation of the payment is based in part on the rates that were levied for school purposes, then the portion to be paid under subsection (2) shall be calculated by multiplying the amount that the area municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for regional purposes for the year by the total taxes for all purposes for the year.

Treasurer to
provide
estimate of
share

(4) The treasurer of each area municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the Regional Corporation and each school board showing an estimate of the amount that the area municipality will be required to pay to the Regional Corporation for the year under subsection (2) and to each school board under subsection 7 (10) of the *Housing Development Act* and under subsection 46 (9) of the *Power Corporation Act*.

R.S.O. 1980,
cc. 209, 384

Allocation of
payments in
lieu of taxes

(5) Where an area municipality is required to pay a portion of a payment in lieu of taxes to the Regional Corporation under subsection (2), or to a school board, the provisions of,

R.S.O. 1980,
c. 31

- (a) subsections 26 (7) and (9) of the *Assessment Act*;

- (b) subsection 7 (10) of the *Housing Development Act*; R.S.O. 1980, c. 209
- (c) subsections 160 (12) and (16) and subsection 160a (4) of the *Municipal Act*; and R.S.O. 1980, c. 302
- (d) subsection 46 (7) of the *Power Corporation Act*, R.S.O. 1980, c. 384

with respect to the equalization of assessment or allocation and deposit of payments shall not apply to that entitlement.

81.—(1) Each area municipality shall pay a portion of the tax levied by it under subsections 161 (12) and (13) of the *Municipal Act* to the Regional Corporation and appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each such body bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes. Payment of portion of telephone and telegraph tax

(2) In determining the taxes levied on commercial assessment under subsection (1), there shall be excluded any adjustments under section 32 or 33 of the *Assessment Act*. Exclusion of taxes added to collector's roll

(3) The treasurer of each area municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the Regional Corporation and the appropriate public school boards showing an estimate of the amount which the area municipality will be required to pay to that body for the year under subsection (1). Statement by treasurer

(4) Subsections 161 (18) to (24) of the *Municipal Act* do not apply if payments are made by an area municipality under subsection (1). Exclusion of R.S.O. 1980, c. 302, s. 161 (18-24)

- 81a.**—(1) An amount payable by an area municipality to,
- (a) the Regional Corporation under subsection 80 (2) or 81 (1); Payment in lieu and telephone and telegraph levies
 - (b) a public school board under subsection 81 (1); or
 - (c) a school board under subsection 7 (10) of the *Housing Development Act* or under subsection 46 (9) of the *Power Corporation Act*, R.S.O. 1980, cc. 209, 384

is a debt of the area municipality to the Regional Corporation or school board, as the case may be, and, subject to subsections (2) and (3), instalments are payable on account thereof as follows:

1. A first instalment equal to 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 31st day of March.
2. A second instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of June.
3. A third instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of September.
4. A fourth instalment of the balance of the entitlement for the year, on or before the 15th day of December.

Alternative
payment
schedule

(2) The Regional Council may by by-law provide for an alternative number of instalments and due dates for amounts payable by area municipalities to the Regional Corporation under subsection (1).

Idem

(3) Where a school board having jurisdiction within the Regional Area has established an agreement which applies to one or more area municipalities in accordance with subsection 215 (3) of the *Education Act*, the number of instalments and due dates specified in that agreement shall apply, with necessary modifications, to those amounts otherwise payable to the school board under subsection (1).

R.S.O. 1980,
c. 129

General
revenues

R.S.O. 1980,
cc. 209, 384

(4) An amount payable by an area municipality under subsection 80 (2) or 81 (1) or under subsection 7 (10) of the *Housing Development Act* or under subsection 46 (9) of the *Power Corporation Act* shall be credited by the Regional Corporation or school board to its general revenues.

Default

(5) If an area municipality fails to make any payment as provided under subsection (1) or as altered under subsection (2) or (3), the area municipality shall pay to the Regional Corporation or school board, as applicable, interest on the amount past due at the rate of 15 per cent per annum, or at such lower rate as the school board or Regional Corporation may by by-law determine from time to time.

Overpayment

(6) Where the total amount paid for the year under subsection (1), (2) or (3) exceeds the total amount payable for that purpose in the year, the area municipality shall notify the Regional Corporation or the school board, as the case may be, of the amount of the overpayment and the Regional Corporation or school board shall forthwith pay that amount to the area municipality.

82.—(1) If the Minister of Revenue considers that, within any class or classes of real property within the Regional Area, any parcel or parcels of real property are assessed inequitably with respect to the assessment of any other parcel or parcels of real property of that class, the Minister of Revenue may direct that such changes be made in the assessment to be contained in the assessment roll next to be returned for each area municipality as will, in the Minister's opinion, eliminate or reduce inequalities in the assessment of any class or classes of real property, and the Minister of Revenue may, for that purpose, make regulations,

Region-wide
assessment
update

- (a) prescribing the classes of real property into which the real property in the Regional Area shall be divided for the purpose of this subsection;
- (b) prescribing standards and procedures to be used for the purpose of equalizing and making equitable the assessments of all real property belonging to the same class throughout the Regional Area;
- (c) providing that any equalization of assessment pursuant to a regulation made under clause (b) shall not alter, as between classes of real property throughout the Regional Area, the relative level of assessment at market value previously existing among such classes, or providing that the equalization shall alter such levels of assessment at market value no more than is reasonably necessary to provide equitability of assessment within each class.

(2) If the assessment roll of an area municipality for taxation in any year is changed pursuant to a direction of the Minister of Revenue under subsection (1),

Application
of new
assessment
roll

- (a) the assessment roll to be returned for that area municipality for taxation in that year shall be the assessment roll as so changed and not the assessment roll that would otherwise have been returned; and
- (b) the assessment roll to be returned in each year following that year shall be the assessment roll returned under clause (a) as amended, added to, or otherwise altered under the *Assessment Act* up to the date when the assessment roll is returned in each such following year.

R.S.O. 1980,
c. 31

(3) Notwithstanding subsection (2), where the assessor is of the opinion that an assessment to be shown on the assessment

Exception

roll to be returned is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

Status of
assessment
roll

(4) For the purpose of every Act, the assessment roll of an area municipality returned under subsection (2) shall be deemed to be the assessment roll of the area municipality returned under the *Assessment Act*.

Mandatory
return of
updated roll
every fourth
year

(5) In every fourth year following the most recent direction under subsection (1), the Minister of Revenue shall make a direction under subsection (1) for changes to be made to the assessment rolls of the area municipalities.

Resolution
required

(6) The Minister of Revenue shall not make a direction under subsection (1) unless the Regional Council by resolution has requested that a direction be made, but a resolution is not required where a direction of the Minister of Revenue is made as required under subsection (5).

Provisions of
R.S.O. 1980,
c. 31

(7) Except as provided in subsection (1), the *Assessment Act* and the alterations, corrections, additions and amendments authorized by that Act apply to an assessment roll returned under subsection (2).

Idem

(8) Subsections 63 (1) and (3) and sections 64 and 65 of the *Assessment Act* do not apply to an area municipality or to the assessment roll of any area municipality in respect of 1987 and subsequent years.

Powers on
appeal

(9) The Assessment Review Board, the Ontario Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Ontario Municipal Board or court is satisfied that the assessment is inequitable with respect to the assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property.

Where
property
described in
class
prescribed
under
subs. (1)

(10) Notwithstanding that a complaint, appeal, proceeding or action concerns an assessment made for taxation in a year prior to the year for which classes of real property were prescribed for the Regional Area under subsection (1), for the

purpose of determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, real property described in a class prescribed under subsection (1) for the Regional Area is not similar to real property described in another class prescribed under subsection (1) for the Regional Area, and the inclusion of real property within a class so prescribed does not indicate that the real property is similar to other real property in that class.

(11) No amendment shall be made to the assessment or a collector's roll under clause 33 (a) of the *Assessment Act* until the cumulative value of the increase since the date of the most recent change to the assessment roll under a direction of the Minister of Revenue under subsection (1) is at least in the sum of \$5,000 at market value or, if the assessment in the Regional Area is at less than market value, at an equivalent rate.

No amendment to collector's roll
R.S.O. 1980, c. 31

(12) For purposes of subsection 24 (16a) of the *Assessment Act*, changes made in the assessment roll of an area municipality under a direction of the Minister of Revenue under subsection (1) shall be deemed to be an update of the assessment of all property within the area municipality under subsection 63 (3) of the *Assessment Act*.

Table of rates for pipe lines

(13) Nothing in section 79, 79a or 79b in any way deprives any person of any right of appeal provided for in the *Assessment Act* or affects the operation of subsection 36 (6) of that Act.

Rights of appeal preserved

(14) A regulation made under subsection (1) may be made retroactive to the 1st day of December of the year preceding the year in which it was made.

Regulations may be retroactive

83.—(1) Where changes are made in the assessment rolls of area municipalities under a direction of the Minister of Revenue under subsection 82 (1) and the changes directly affect the relative cost sharing of conservation authority responsibilities for any municipality beyond the Regional Area or cause within the Regional Area substantial tax shifts between municipalities, property classes or individual properties, the Lieutenant Governor in Council, may in order to minimize such effects, make regulations prescribing an alternative basis of apportionment to that specified under the *Conservation Authorities Act*.

Conservation Authority apportionments

R.S.O. 1980, c. 85

(2) A regulation made under subsection (1) may be made retroactive to a date not earlier than the 1st day of January of the year in which it was made.

Regulation may be retroactive

Transition

3. Nothing in this Act affects the validity of an interim levy made by the Regional Council or by the council of an area municipality under section 81 of the *Regional Municipality of Haldimand-Norfolk Act* as it existed before the coming into force of this Act and subsections 79 (8), (9) and (10) and subsection 79c (2) of that Act, as enacted by this Act, apply with necessary modifications to the interim levy made by the Regional Council in 1987 and subsections 79d (4), (5) and (6) of that Act, as enacted by this Act, apply with necessary modifications to an interim levy made by an area municipality in 1987.

Idem

R.S.O. 1980,
cc. 302, 129

4. Notwithstanding subsection 164 (2) of the *Municipal Act* or subsection 216 (2) of the *Education Act*, where the amount levied by an area municipality for regional purposes or school purposes in 1986 differs from the sum the area municipality ought to have levied for regional purposes or school purposes, the area municipality shall debit or credit such deficit or surplus, as applicable, to the general funds of the municipality and not revise the rates to be levied for such body in 1987.

Commence-
ment

5. This Act shall be deemed to have come into force on the 1st day of January, 1987.

Short title

6. The short title of this Act is the *Regional Municipality of Haldimand-Norfolk Amendment Act, 1987*.

Bill 6

*(Chapter 16
Statutes of Ontario, 1987)*

An Act to amend the Regional Municipality of Haldimand-Norfolk Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



<i>1st Reading</i>	April 29th, 1987
<i>2nd Reading</i>	May 19th, 1987
<i>3rd Reading</i>	May 20th, 1987
<i>Royal Assent</i>	May 21st, 1987

Bill 6

1987

An Act to amend the Regional Municipality of Haldimand-Norfolk Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 76 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

76. In this Part,

Definitions

“commercial assessment” means the total, according to the last returned assessment roll, of,

- (a) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal or regional corporation or local board thereof,
- (b) business assessment, and
- (c) the assessment for mineral lands, pipe lines and railway lands, other than railway lands actually in use for residential and farming purposes;

“public school board” means a public board as defined in paragraph 42a of subsection 1 (1) of the *Education Act*;

R.S.O. 1980,
c. 129

“rateable property” includes business and other assessment made under the *Assessment Act*;

R.S.O. 1980,
c. 31

“regional rating by-law” means a by-law passed under subsection 79 (2);

“residential and farm assessment” means the total assessment for real property according to the last returned assessment roll except the assessments for real property mentioned in clauses (a) and (c) of the definition of “commercial assessment”;

R.S.O. 1980,
c. 129

“separate school board” means a separate school board as defined in paragraph 59a of subsection 1 (1) of the *Education Act*;

“weighted assessment” means for the relevant area the total of,

- (a) the product obtained by multiplying the residential and farm assessment by 85 per cent, and
- (b) the commercial assessment.

2. Section 79 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 45, section 7 and sections 80, 81, 82 and 83 are repealed and the following substituted therefor:

Definition

79.—(1) In this section, “total net regional levy” means a sum sufficient,

- (a) for payment of the estimated current annual expenditures as adopted under section 78; and
- (b) for payment of all debts of the Regional Corporation falling due within the year as well as amounts required to be raised for sinking funds and principal and interest payments or sinking fund requirements in respect of debenture debt of area municipalities for the payment of which the Regional Corporation is liable under this Act,

but excludes those amounts for water and sewage purposes that are to be raised by a special rate or rates in accordance with sections 74 and 75.

Regional
rating by-law

(2) For purposes of raising the total net regional levy, the Regional Council, on or before the 30th day of June in 1987 and on or before the 31st day of March in each subsequent year, shall pass a by-law directing the council of each area municipality to levy a separate rate, as specified in the by-law, on the residential and farm assessment in the area municipality rateable for regional purposes and on the commercial assessment in the area municipality rateable for regional purposes.

(3) The rate that the Regional Council shall direct to be levied on commercial assessment under subsection (2) shall be determined by multiplying the total net regional levy by 1,000 and dividing the product by the total of the weighted assessments for all the area municipalities.

Determi-
nation of
commercial
rate

(4) The rate that the Regional Council shall direct to be levied on the residential and farm assessment under subsection (2) shall be 85 per cent of the rate that it directs to be levied on commercial assessment.

Determi-
nation of
residential
rate

(5) In each year, the council of each area municipality shall levy, in accordance with the regional rating by-law passed for that year, the rates specified in the by-law.

Area muni-
cipality to
adopt rates

(6) The assessment for real property that is exempt from taxation for regional purposes by virtue of any Act or by virtue of a by-law passed by the council of an area municipality under any Act shall not be included when determining the total of the weighted assessments for all the area municipalities for purposes of subsection (3).

Tax exempt
real property

(7) The full value of all rateable property shall be used in determining,

Full value to
be used

(a) the rates to be levied under subsections (3) and (4); and

(b) the assessment on which the levy shall be made under subsection (5),

and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

R.S.O. 1980,
c. 31

(8) A regional rating by-law shall specify the amount to be raised in an area municipality as a result of a levy being made in that area municipality in accordance with the by-law and the by-law,

Instalment
and advance
payments

(a) may require specified portions of that amount to be paid to the treasurer of the Regional Corporation on or before specified dates; and

(b) may provide that the Regional Corporation shall pay interest at a rate to be determined by the Regional Council on any payment required, or portion thereof, made in advance by any area municipality.

Payment

(9) The amount specified to be raised in an area municipality pursuant to a regional rating by-law shall be deemed to be taxes and is a debt of the area municipality to the Regional Corporation and the treasurer of the area municipality shall pay the amount owing by the area municipality to the treasurer of the Regional Corporation on or before the dates and in the portions specified in the regional rating by-law.

Default

(10) If an area municipality fails to make any payment, or portion thereof, as provided in the regional rating by-law, the area municipality shall pay to the Regional Corporation interest on the amount in default at the rate of 15 per cent per annum from the due date of the payment, or such lower rate as the Regional Council may by by-law determine, from the date payment is due until it is made.

Extension of time

(11) The Minister by order may extend the time for passing a regional rating by-law in any year and such an order may be made notwithstanding that the time limit set out in subsection (2) has expired.

Alternative basis of apportionment
R.S.O. 1980,
c. 359

(12) Notwithstanding subsections (3) and (4), in each of the years 1987, 1988 and 1989, the Lieutenant Governor in Council may in a regulation made under section 9a of the *Ontario Unconditional Grants Act*, prescribe an alternative basis on which apportionments are to be made and may prescribe the manner of determining the mill rates to be specified and determined under subsection (2).

Deeming provision

(13) A basis of apportionment prescribed by the Lieutenant Governor in Council under subsection (12) shall be deemed to have been prescribed under subsection 9a (1) of the *Ontario Unconditional Grants Act* as an alternative to the basis of apportionment that would have been prescribed for the Regional Area under subsection 9a (1) if the Regional Area had not been subject to an assessment update under subsection 82 (1).

Determination of school rates

79a.—(1) In each year, The Brant County Roman Catholic Separate School Board, The Haldimand Board of Education, The Haldimand-Norfolk Roman Catholic Separate School Board, The Norfolk Board of Education, The Oxford County Roman Catholic Separate School Board and The Welland County Roman Catholic Separate School Board shall determine the rates to be levied by the applicable area municipalities to provide the sums required for elementary and secondary school purposes, as the case may be, in that year and shall specify the amount that is to be provided in that year by the application of those rates within an area municipality.

(2) The determinations required by subsection (1) shall be made in accordance with subsection 222 (1) of the *Education Act*. Idem
R.S.O. 1980,
c. 129

(3) On or before the 1st day of March in each year, The Brant County Roman Catholic Separate School Board, The Haldimand Board of Education, The Haldimand-Norfolk Roman Catholic Separate School Board, The Norfolk Board of Education, The Oxford County Roman Catholic Separate School Board and The Welland County Roman Catholic Separate School Board shall direct the council of each applicable area municipality to levy the rates determined by the particular Board in respect of that area municipality under subsection (1) and shall advise the area municipality of the amount of money to be raised by levying those rates. Direction to
area municipi-
ties

(4) In each year the council of an area municipality shall levy rates in accordance with the directions under subsection (3) upon all property in the area municipality rateable for public school board or separate school board purposes, as may be appropriate. Area municipi-
pality to levy
and collect

(5) The full value of all applicable rateable property shall be used in determining, Full value to
be used

(a) the weighted assessment for each area municipality for purposes of apportioning among the applicable area municipalities the sums required for school purposes by the school boards mentioned in subsection (3);

(b) the rates mentioned in subsection (1); and

(c) the assessment upon which the rates are to be levied under sections 128, 133 and 215 of the *Education Act*, R.S.O. 1980,
c. 129

and notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

R.S.O. 1980,
c. 31

(6) Notwithstanding subsection (2) and clause (5) (a), in each year, The Haldimand-Norfolk Roman Catholic Separate School Board may, as it considers reasonable, alter the apportionment of its requirements, such that the rates to be levied for elementary school purposes in that area of its jurisdiction that comprised the County of Haldimand on March 31, 1974 will differ from those rates to be levied for elementary school purposes in that area of its jurisdiction that comprised the County of Norfolk on March 31, 1974. School rates
for
Haldimand-
Norfolk

Definitions
in
R.S.O. 1980,
c. 129, s. 220

(7) For the purposes of determining and levying rates under this section, a reference in the *Education Act* to “commercial assessment” or “residential and farm assessment” shall be deemed to be a reference to such assessments as defined in this Part and not as defined in section 220 of that Act.

Non-
application
of
R.S.O. 1980,
c. 129,
s. 219 (2)

(8) Subsection 219 (2) of the *Education Act* does not apply to the determination of rates under subsection (1).

Application
of
R.S.O. 1980,
c. 129

(9) Except as provided in this section, the *Education Act* continues to apply to the levying of rates and collecting of taxes for each public school board and separate school board having jurisdiction in part of the Regional Area.

Definitions

79b.—(1) In this section,

R.S.O. 1980,
c. 302

“area municipality levy” means the amount required for area municipality purposes under section 164 of the *Municipal Act* including the sums required for any board, commission or other body, but excluding those amounts required to be raised for regional and school purposes;

“special area municipality levy” means an amount to be raised by an area municipality that is not included in the area municipality levy, but excluding those amounts required to be raised for regional and school purposes.

Area muni-
cipality levies

(2) The council of each area municipality, in each year in accordance with subsections (3) and (4), shall levy separate rates on the whole of the rateable commercial assessment and on the whole of the rateable residential and farm assessment in respect of the area municipality levy and the special area municipality levy.

Determi-
nation of
commercial
rates

(3) The rates to be levied in each year, on commercial assessment for each separate levy specified in subsection (2), shall be determined by multiplying the sum required for each such levy by 1,000 and dividing the product,

- (a) by the weighted assessment for the area municipality, in the case of an area municipality levy; and
- (b) by the weighted assessment determined on the basis of the assessment that is rateable for the purpose of raising the special area municipality levy, in the case of a special area municipality levy.

(4) The rates to be levied in each year, on residential and farm assessment for each separate levy specified in subsection (2), shall be 85 per cent of the rate to be levied on commercial assessment in accordance with subsection (3).

Determi-
nation of
residential
rates

(5) Section 158 of the *Municipal Act* and section 7 of the *Ontario Unconditional Grants Act* do not apply to an area municipality.

Non-
application
of
R.S.O. 1980,
c. 302, s. 158
and c. 359,
s. 7

(6) A reference in any other Act to a levy by a local municipality under section 158 of the *Municipal Act* shall, with respect to an area municipality, be deemed to be a reference to a levy under this section.

Area munici-
pality levy

(7) The assessment for real property that is exempt from taxation for area municipality purposes by virtue of any Act or by virtue of a by-law passed by the council of an area municipality under any Act shall not be included when determining the weighted assessment for purposes of clause (3) (a) or (b).

Tax exempt
real property

79c.—(1) The Regional Council, before the adoption of the estimates for the year, may by by-law requisition from each area municipality a sum not exceeding 50 per cent of the amount that under subsection 79 (8) was, in the regional rating by-law for the preceding year, specified to be raised in the particular area municipality and subsections 79 (8), (9) and (10) apply with necessary modifications to the amount requisitioned.

Interim
financing,
Regional
Council

(2) The amount of any requisition made under subsection (1) in any year upon an area municipality shall be deducted when determining the amount of the portions to be paid in that year by the area municipality to the treasurer of the Regional Corporation under the regional rating by-law authorized by clause 79 (8) (a).

Final
instalment
reduced

79d.—(1) The council of an area municipality may for any year, before the adoption of the estimates for the year, levy such rates as it may determine on the rateable commercial assessment and on the rateable residential and farm assessment in the area municipality.

Interim
financing,
area munic-
ipalities

(2) A by-law for levying rates under subsection (1) shall be passed in the year that the rates are to be levied or may be passed in December of the preceding year if it provides that it does not come into force until a specified day in the following year.

By-law in
December of
preceding
year

Determi-
nation of
rate

(3) The rate that may be levied on any assessment under subsection (1) shall not exceed 50 per cent of the total of the rates that were levied or would have been levied on that assessment for all purposes in the preceding year.

Assessment
roll

(4) If the assessment roll for taxation in the current year has not been returned, the rate levied under subsection (1) may be levied on the assessment according to the assessment roll used for taxation purposes in the preceding year.

Interim levy
deducted
from final
levy

(5) The amount of any levy made on an assessment under subsection (1) shall be deducted from the total amount levied on that assessment for that year under sections 79, 79a and 79b.

Interim levy
in excess of
final levy

(6) Where the taxes levied on an assessment for real property or on a business assessment under this section exceed the taxes to be levied on that assessment for the year under sections 79, 79a and 79b, the treasurer of the area municipality shall, not later than twenty-one days following the giving of a notice of demand of taxes payable, refund to the person assessed that portion of the taxes paid in excess of the amount payable for the year pursuant to a levy made under sections 79, 79a and 79b.

Application
of
R.S.O. 1980,
c. 302

(7) The provisions of the *Municipal Act* with respect to the levy of rates and the collection of taxes apply with necessary modifications to the levy of rates and collection of taxes under this section.

Power of
Minister

79e. Where a direction has been made under subsection 82 (1) that a new assessment roll be returned for taxation in the current year, the Minister by order,

- (a) may prescribe the maximum sum that may be requisitioned from each area municipality under subsection 79c (1); and
- (b) may prescribe the maximum rates that may be levied by the council of each area municipality under subsection 79d (1).

Definitions

80.—(1) In this section,

“payment in lieu of taxes” means an amount that an area municipality is eligible to receive under,

R.S.O. 1980,
c. 31

(a) subsection 26 (3), (4) or (5) of the *Assessment Act*,

R.S.O. 1980,
c. 209

(b) subsection 7 (6) of the *Housing Development Act*,

but not including that portion payable to a school board in accordance with subsection 7 (10) of that Act,

- (c) section 160 and subsection 160a (3) of the *Municipal Act*, R.S.O. 1980, c. 302
- (d) subsection 4 (1), (2) or (3) of the *Municipal Tax Assistance Act*, R.S.O. 1980, c. 311
- (e) section 42 of the *Ontario Water Resources Act*, R.S.O. 1980, c. 361
- (f) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act, R.S.O. 1980, c. 384
- (g) subsection 133 (6) of this Act,
- (h) section 10 or 11 of the *Trees Act*, R.S.O. 1980, c. 510
- (i) the *Municipal Grants Act, 1980* (Canada), or 1980-81-82-83, c. 37 (Can.)
- (j) any Act of Ontario or of Canada or any agreement where the payment is from any government or government agency and is in lieu of taxes on real property or business assessment, but not including a payment referred to in section 498 of the *Municipal Act*; R.S.O. 1980, c. 302

“taxes for local purposes” means the taxes levied by an area municipality for local purposes under subsection 79b (2), excluding any adjustments under section 32 or 33 of the *Assessment Act*;

R.S.O. 1980, c. 31

“taxes for regional purposes” means the sum of the taxes levied by an area municipality for regional purposes under subsection 79 (2) and in respect to an urban service area established under sections 74 and 75, excluding any adjustments under section 32 or 33 of the *Assessment Act*;

“total taxes for all purposes” means the sum of the taxes for local purposes, the taxes for regional purposes and the taxes levied by the area municipality for school purposes under section 79b, excluding any adjustments under section 32 or 33 of the *Assessment Act*.

(2) Where an area municipality is eligible to receive a payment in lieu of taxes for any year, it shall pay to the treasurer of the Regional Corporation a portion equal to the amount

Area municipalities to share payments in lieu of taxes

obtained by multiplying the amount that the area municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for regional purposes for the year by the total of,

- (a) the taxes for local purposes for the year; and
- (b) the taxes for regional purposes for the year.

Sharing of
certain
payments

(3) Notwithstanding subsection (2), if an area municipality is eligible to receive a payment in lieu of taxes for any year under,

R.S.O. 1980,
c. 31

- (a) subsection 26 (3), (4) or (5) of the *Assessment Act*;

R.S.O. 1980,
c. 361

- (b) section 42 of the *Ontario Water Resources Act*;

R.S.O. 1980,
c. 384

- (c) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act;

- (d) subsection 133 (6) of this Act;

R.S.O. 1980,
c. 510

- (e) section 10 or 11 of the *Trees Act*; or

1980-81-82-
83,
c. 37 (Can.)

- (f) the *Municipal Grants Act, 1980* (Canada),

and the calculation of the payment is based in part on the rates that were levied for school purposes, then the portion to be paid under subsection (2) shall be calculated by multiplying the amount that the area municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for regional purposes for the year by the total taxes for all purposes for the year.

Treasurer to
provide
estimate of
share

(4) The treasurer of each area municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the Regional Corporation and each school board showing an estimate of the amount that the area municipality will be required to pay to the Regional Corporation for the year under subsection (2) and to each school board under subsection 7 (10) of the *Housing Development Act* and under subsection 46 (9) of the *Power Corporation Act*.

R.S.O. 1980,
cc. 209, 384

Allocation of
payments in
lieu of taxes

(5) Where an area municipality is required to pay a portion of a payment in lieu of taxes to the Regional Corporation under subsection (2), or to a school board, the provisions of,

R.S.O. 1980,
c. 31

- (a) subsections 26 (7) and (9) of the *Assessment Act*;

(b) subsection 7 (10) of the *Housing Development Act*; R.S.O. 1980, c. 209

(c) subsections 160 (12) and (16) and subsection 160a (4) of the *Municipal Act*; and R.S.O. 1980, c. 302

(d) subsection 46 (7) of the *Power Corporation Act*, R.S.O. 1980, c. 384

with respect to the equalization of assessment or allocation and deposit of payments shall not apply to that entitlement.

81.—(1) Each area municipality shall pay a portion of the tax levied by it under subsections 161 (12) and (13) of the *Municipal Act* to the Regional Corporation and appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each such body bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes. Payment of portion of telephone and telegraph tax

(2) In determining the taxes levied on commercial assessment under subsection (1), there shall be excluded any adjustments under section 32 or 33 of the *Assessment Act*. Exclusion of taxes added to collector's roll

(3) The treasurer of each area municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the Regional Corporation and the appropriate public school boards showing an estimate of the amount which the area municipality will be required to pay to that body for the year under subsection (1). Statement by treasurer

(4) Subsections 161 (18) to (24) of the *Municipal Act* do not apply if payments are made by an area municipality under subsection (1). Exclusion of R.S.O. 1980, c. 302, s. 161 (18-24)

81a.—(1) An amount payable by an area municipality to, Payment in lieu and telephone and telegraph levies

(a) the Regional Corporation under subsection 80 (2) or 81 (1);

(b) a public school board under subsection 81 (1); or

(c) a school board under subsection 7 (10) of the *Housing Development Act* or under subsection 46 (9) of the *Power Corporation Act*, R.S.O. 1980, cc. 209, 384

is a debt of the area municipality to the Regional Corporation or school board, as the case may be, and, subject to subsections (2) and (3), instalments are payable on account thereof as follows:

1. A first instalment equal to 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 31st day of March.
2. A second instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of June.
3. A third instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of September.
4. A fourth instalment of the balance of the entitlement for the year, on or before the 15th day of December.

Alternative
payment
schedule

(2) The Regional Council may by by-law provide for an alternative number of instalments and due dates for amounts payable by area municipalities to the Regional Corporation under subsection (1).

Idem

R.S.O. 1980,
c. 129

(3) Where a school board having jurisdiction within the Regional Area has established an agreement which applies to one or more area municipalities in accordance with subsection 215 (3) of the *Education Act*, the number of instalments and due dates specified in that agreement shall apply, with necessary modifications, to those amounts otherwise payable to the school board under subsection (1).

General
revenues

R.S.O. 1980,
cc. 209, 384

(4) An amount payable by an area municipality under subsection 80 (2) or 81 (1) or under subsection 7 (10) of the *Housing Development Act* or under subsection 46 (9) of the *Power Corporation Act* shall be credited by the Regional Corporation or school board to its general revenues.

Default

(5) If an area municipality fails to make any payment as provided under subsection (1) or as altered under subsection (2) or (3), the area municipality shall pay to the Regional Corporation or school board, as applicable, interest on the amount past due at the rate of 15 per cent per annum, or at such lower rate as the school board or Regional Corporation may by by-law determine from time to time.

Overpayment

(6) Where the total amount paid for the year under subsection (1), (2) or (3) exceeds the total amount payable for that purpose in the year, the area municipality shall notify the Regional Corporation or the school board, as the case may be, of the amount of the overpayment and the Regional Corporation or school board shall forthwith pay that amount to the area municipality.

82.—(1) If the Minister of Revenue considers that, within any class or classes of real property within the Regional Area, any parcel or parcels of real property are assessed inequitably with respect to the assessment of any other parcel or parcels of real property of that class, the Minister of Revenue may direct that such changes be made in the assessment to be contained in the assessment roll next to be returned for each area municipality as will, in the Minister's opinion, eliminate or reduce inequalities in the assessment of any class or classes of real property, and the Minister of Revenue may, for that purpose, make regulations,

Region-wide
assessment
update

- (a) prescribing the classes of real property into which the real property in the Regional Area shall be divided for the purpose of this subsection;
- (b) prescribing standards and procedures to be used for the purpose of equalizing and making equitable the assessments of all real property belonging to the same class throughout the Regional Area;
- (c) providing that any equalization of assessment pursuant to a regulation made under clause (b) shall not alter, as between classes of real property throughout the Regional Area, the relative level of assessment at market value previously existing among such classes, or providing that the equalization shall alter such levels of assessment at market value no more than is reasonably necessary to provide equitability of assessment within each class.

(2) If the assessment roll of an area municipality for taxation in any year is changed pursuant to a direction of the Minister of Revenue under subsection (1),

Application
of new
assessment
roll

- (a) the assessment roll to be returned for that area municipality for taxation in that year shall be the assessment roll as so changed and not the assessment roll that would otherwise have been returned; and
- (b) the assessment roll to be returned in each year following that year shall be the assessment roll returned under clause (a) as amended, added to, or otherwise altered under the *Assessment Act* up to the date when the assessment roll is returned in each such following year.

R.S.O. 1980,
c. 31

(3) Notwithstanding subsection (2), where the assessor is of the opinion that an assessment to be shown on the assessment

Exception

roll to be returned is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

Status of
assessment
roll

(4) For the purpose of every Act, the assessment roll of an area municipality returned under subsection (2) shall be deemed to be the assessment roll of the area municipality returned under the *Assessment Act*.

Mandatory
return of
updated roll
every fourth
year

(5) In every fourth year following the most recent direction under subsection (1), the Minister of Revenue shall make a direction under subsection (1) for changes to be made to the assessment rolls of the area municipalities.

Resolution
required

(6) The Minister of Revenue shall not make a direction under subsection (1) unless the Regional Council by resolution has requested that a direction be made, but a resolution is not required where a direction of the Minister of Revenue is made as required under subsection (5).

Provisions of
R.S.O. 1980,
c. 31

(7) Except as provided in subsection (1), the *Assessment Act* and the alterations, corrections, additions and amendments authorized by that Act apply to an assessment roll returned under subsection (2).

Idem

(8) Subsections 63 (1) and (3) and sections 64 and 65 of the *Assessment Act* do not apply to an area municipality or to the assessment roll of any area municipality in respect of 1987 and subsequent years.

Powers on
appeal

(9) The Assessment Review Board, the Ontario Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Ontario Municipal Board or court is satisfied that the assessment is inequitable with respect to the assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property.

Where
property
described in
class
prescribed
under
subs. (1)

(10) Notwithstanding that a complaint, appeal, proceeding or action concerns an assessment made for taxation in a year prior to the year for which classes of real property were prescribed for the Regional Area under subsection (1), for the

purpose of determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, real property described in a class prescribed under subsection (1) for the Regional Area is not similar to real property described in another class prescribed under subsection (1) for the Regional Area, and the inclusion of real property within a class so prescribed does not indicate that the real property is similar to other real property in that class.

(11) No amendment shall be made to the assessment or a collector's roll under clause 33 (a) of the *Assessment Act* until the cumulative value of the increase since the date of the most recent change to the assessment roll under a direction of the Minister of Revenue under subsection (1) is at least in the sum of \$5,000 at market value or, if the assessment in the Regional Area is at less than market value, at an equivalent rate.

No amendment to collector's roll
R.S.O. 1980, c. 31

(12) For purposes of subsection 24 (16a) of the *Assessment Act*, changes made in the assessment roll of an area municipality under a direction of the Minister of Revenue under subsection (1) shall be deemed to be an update of the assessment of all property within the area municipality under subsection 63 (3) of the *Assessment Act*.

Table of rates for pipe lines

(13) Nothing in section 79, 79a or 79b in any way deprives any person of any right of appeal provided for in the *Assessment Act* or affects the operation of subsection 36 (6) of that Act.

Rights of appeal preserved

(14) A regulation made under subsection (1) may be made retroactive to the 1st day of December of the year preceding the year in which it was made.

Regulations may be retroactive

83.—(1) Where changes are made in the assessment rolls of area municipalities under a direction of the Minister of Revenue under subsection 82 (1) and the changes directly affect the relative cost sharing of conservation authority responsibilities for any municipality beyond the Regional Area or cause within the Regional Area substantial tax shifts between municipalities, property classes or individual properties, the Lieutenant Governor in Council, may in order to minimize such effects, make regulations prescribing an alternative basis of apportionment to that specified under the *Conservation Authorities Act*.

Conservation Authority apportionments

R.S.O. 1980, c. 85

(2) A regulation made under subsection (1) may be made retroactive to a date not earlier than the 1st day of January of the year in which it was made.

Regulation may be retroactive

Transition

3. Nothing in this Act affects the validity of an interim levy made by the Regional Council or by the council of an area municipality under section 81 of the *Regional Municipality of Haldimand-Norfolk Act* as it existed before the coming into force of this Act and subsections 79 (8), (9) and (10) and subsection 79c (2) of that Act, as enacted by this Act, apply with necessary modifications to the interim levy made by the Regional Council in 1987 and subsections 79d (4), (5) and (6) of that Act, as enacted by this Act, apply with necessary modifications to an interim levy made by an area municipality in 1987.

Idem

R.S.O. 1980,
cc. 302, 129

4. Notwithstanding subsection 164 (2) of the *Municipal Act* or subsection 216 (2) of the *Education Act*, where the amount levied by an area municipality for regional purposes or school purposes in 1986 differs from the sum the area municipality ought to have levied for regional purposes or school purposes, the area municipality shall debit or credit such deficit or surplus, as applicable, to the general funds of the municipality and not revise the rates to be levied for such body in 1987.

Commence-
ment

5. This Act shall be deemed to have come into force on the 1st day of January, 1987.

Short title

6. The short title of this Act is the *Regional Municipality of Haldimand-Norfolk Amendment Act, 1987*.

Bill 7

An Act to amend certain Acts respecting Regional Municipalities

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading April 29th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill amends the ten Acts that govern regional municipalities.

Paragraph 1 describes amendments that are common to all ten of the regional municipalities.

Paragraphs 2 to 4 describe amendments related only to the regional municipalities named in the particular paragraphs.

1. All Regional Municipalities

Subsections 1 (1), 2 (2), 3 (3), 4 (4), 5 (1), 6 (1), 7 (2), 8 (1), 9 (1) and 10 (1).

It is proposed that each Regional Council be given the power to establish, maintain and operate or discontinue fluoridation systems. The *Fluoridation Act* will cease to apply to the area municipalities.

Subsections 1 (2), 2 (1), 3 (2), 4 (3), 5 (3), 6 (2), 7 (1), 8 (3), 9 (2) and 10 (2).

A provision made obsolete by the repeal of the *Juvenile Delinquents Act* (Canada) is repealed.

Subsections 1 (3), 2 (3), 3 (4), 4 (5), 5 (4), 6 (5), 7 (3), 8 (4), 9 (3) and 10 (3).

The proposed amendments adopt two provisions of the *Municipal Act* and make them applicable to Regional Councils. Section 78a of the *Municipal Act* deals with transfers and storage of documents. Section 78b of that Act allows certified copies of documents to be received in evidence in any court or tribunal instead of the original.

Subsections 1 (4), 2 (4), 3 (5), 4 (6), 5 (5), clause 6 (6) (a), subsections 7 (4), 8 (5), 9 (4) and 10 (4).

The proposed amendment would make section 112 of the *Municipal Act* applicable to Regional Councils. This section prohibits bonuses being paid by the Regional Council to any business.

2. Regional Municipalities of Halton, Niagara and Sudbury.

Subsections 3 (1), 5 (2) and 8 (2).

The proposed amendment would authorize the Regional Council to use undisbursed interest accumulated on the trust accounts of residents of the Regional homes for the aged for the general benefit of residents of those homes for the aged.

3. Regional Municipality of Hamilton-Wentworth

Subsection 4 (1). The proposed section would permit the Regional Corporation to enter into agreements with the owners or lessees of land abutting a highway under the jurisdiction of the Regional Corporation for various purposes.

Subsection 4 (2). Subsection 79 (2) of the Act which relates to hospital board appointments by Regional Council is repealed.

4. Regional Municipality of Ottawa-Carleton

Subsections 6 (3, 4). These subsections would authorize the Regional Council to establish day care service areas and to allocate the costs to the participating area municipalities.

Clause 6 (6) (b). The Regional Council, by the adoption of paragraph 55 of section 208 of the *Municipal Act*, would have the power to establish and operate municipal parking lots.

Subsection 6 (7). This subsection would authorize the Regional Council to enter into agreements to provide for the establishment and operation of a centralized communication system.

Bill 7

1987

An Act to amend certain Acts respecting Regional Municipalities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

REGIONAL MUNICIPALITY OF DURHAM

1.—(1) The *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

52a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Regulations

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluori-
dation of
water supply
in area

(2) Section 90 of the said Act is repealed.

(3) Subsection 129 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 5, is amended by inserting after “5” in the first line “78a, 78b”.

(4) The said subsection 129 (1) is further amended by inserting after “109” in the second line “112”.

REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

2.—(1) Section 64 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is repealed.

(2) The said Act is amended by adding thereto the following section:

Fluoridation
system

R.S.O. 1980,
c. 171

Non-
application

Regulations

Continuation
of fluori-
dation of
water supply
in area

74a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

(2) The *Fluoridation Act* does not apply to any area municipality.

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(3) Subsection 111 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 12, is amended by inserting after “5” in the first line “78a, 78b”.

(4) The said subsection 111 (1) is further amended by inserting after “109” in the second line “112”.

REGIONAL MUNICIPALITY OF HALTON

3.—(1) The *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Trust fund
disbursement

71a. The trust fund, composed of undisbursed interest accumulated prior to the 2nd day of November, 1980 on the trust accounts of residents of the Regional Municipality of Halton Homes for the Aged, is vested in the Regional Corporation for distribution of both the fund and interest accruing thereon by the Regional Council in its absolute discretion for the general benefit of the residents of the Regional Municipality of Halton Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

(2) Section 75 of the said Act is repealed.

(3) The said Act is further amended by adding thereto the following section:

85a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*. Fluoridation system
R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality. Non-application

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act. Regulations

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection. Continuation of fluoridation of water supply in area

(4) Subsection 122 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 17, is amended by inserting after “5” in the first line “78a, 78b”.

(5) The said subsection 122 (1) is further amended by inserting after “109” in the second line “112”.

REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

4.—(1) The *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

39a.—(1) The Regional Council may by by-law authorize agreements between the Regional Corporation and the owners or lessees of land abutting on a highway under the jurisdiction and control of the Regional Corporation for the construction, maintenance and use of buildings or parts thereof, over, across or under the highway upon such terms and conditions as may be agreed and for leasing or licensing the use of the air space over the highway or the lands under the highway to such persons and for such consideration and upon such terms and conditions as may be agreed. Agreements respecting highways

(2) An agreement made under subsection (1) that affects a highway or a highway right of way that is a connecting link, within the meaning of section 21 of the *Public Transportation and Highway Improvement Act* shall have no effect until Approval of agreement
R.S.O. 1980,
c. 421

approved by the Minister of Transportation and Communications.

(2) Subsection 79 (2) of the said Act is repealed.

(3) Section 86 of the said Act is repealed.

(4) The said Act is further amended by adding thereto the following section:

Fluoridation
system

R.S.O. 1980,
c. 171

Non-
application

Regulations

Continuation
of fluori-
dation of
water supply
in area

96a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

(2) The *Fluoridation Act* does not apply to any area municipality.

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(5) Subsection 133 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 46, section 4, is amended by inserting after “5” in the first line “78a, 78b”.

(6) The said subsection 133 (1) is further amended by inserting after “110” in the second line “112”.

REGIONAL MUNICIPALITY OF NIAGARA

5.—(1) Subsections 31 (2) and (3) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Fluoridation
system

R.S.O. 1980,
c. 171

Non-
application

(2) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

(3) The *Fluoridation Act* does not apply to any area municipality.

(4) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Regulations
R.S.O. 1980,
c. 171

(5) Notwithstanding that a by-law has not been passed under subsection (2), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluori-
dation of
water supply
in area

(2) The said Act is amended by adding thereto the following section:

110a. The trust fund, composed of undisbursed interest accumulated prior to the 1st day of January, 1984 on the trust accounts of residents of the Regional Municipality of Niagara Homes for the Aged, is vested in the Regional Corporation for distribution of both the fund and interest accruing thereon by the Regional Council in its absolute discretion for the general benefit of the residents of the Regional Municipality of Niagara Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

Trust fund
disbursement

(3) Section 112 of the said Act is repealed.

(4) Subsection 161 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 31, is amended by inserting after “5” in the first line “78a, 78b”.

(5) The said subsection 161 (1) is further amended by inserting after “109” in the second line “112”.

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

6.—(1) The *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

31a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Regulations

Continuation
of fluoridation
of water supply
in area

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(2) Section 113 of the said Act is repealed.

(3) Subsection 115 (2) of the said Act is amended by inserting after “subsection (1)” in the first line “but subject to section 115a”.

(4) The said Act is further amended by adding thereto the following section:

Day care
service areas

115a.—(1) The Regional Council may by by-law designate as a day care service area any or all of the area municipalities and may pass such additional by-laws to alter the composition of the day care service area by adding or eliminating any area municipality.

Levies for
day care
service areas

(2) The Regional Council in each year shall levy against the area municipalities situate within the day care service area a sum sufficient to meet the costs, as estimated by the Regional Council, of providing day care services in the day care service area and Part IX applies with necessary modifications to a levy made under this section as though it were a levy made by the Regional Council under subsection 121 (1).

Idem

(3) An area municipality within the day care service area may pay the levy imposed on the area municipality under subsection (2) out of its general funds or, subject to the approval of the Municipal Board, may pass one or more by-laws to impose special rates in one or more parts of the area municipality to raise the whole or any part of the levy imposed on the area municipality under subsection (2).

Idem

(4) An area municipality not in the day care service area may pay the amount charged to it by the Regional Council for day care services under subsection 115 (2) out of its general funds or, subject to the approval of the Municipal Board, may pass one or more by-laws to impose special rates in one or more parts of the area municipality to raise the whole or any part of the amount charged to the area municipality under subsection 115 (2).

(5) Subsection 163 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 35, is amended by inserting after “5” in the first line “78a, 78b”.

(6) The said subsection 163 (1) is further amended by,

(a) inserting after “106” in the first line “112”; and

(b) striking out “and 54” in the third line and inserting in lieu thereof “54 and 55”.

(7) The said Act is further amended by adding thereto the following section:

165a.—(1) The Regional Council may pass by-laws and enter into agreements to provide for the establishment and operation of a centralized communication system either alone or in concert with the area municipalities and their local boards for the provision of emergency response services in the Regional Area.

Centralized
communi-
cation system

(2) The area municipalities and their local boards may enter into agreements under subsection (1) with the Regional Council.

Agreements

REGIONAL MUNICIPALITY OF PEEL

7.—(1) Section 70 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed.

(2) The said Act is amended by adding thereto the following section:

80a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Regulations

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluori-
dation of
water supply
in area

(3) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 41, is amended by inserting after “5” in the first line “78a, 78b”.

(4) The said subsection 117 (1) is further amended by inserting after “109” in the second line “112”.

REGIONAL MUNICIPALITY OF SUDBURY

8.—(1) The *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Fluoridation
system

R.S.O. 1980,
c. 171

25a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Non-
application

(2) The *Fluoridation Act* does not apply to any area municipality.

Regulations

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Continuation
of fluori-
dation of
water supply
in area

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(2) The said Act is further amended by adding thereto the following section:

Trust fund
disbursement

33a. The trust fund, composed of undisbursed interest accumulated prior to the 1st day of November, 1984 on the trust accounts of residents of Pioneer Manor, is vested in the Regional Corporation for distribution of both the fund and interest accruing thereon by the Regional Council in its absolute discretion for the general benefit of the residents of Pioneer Manor provided that no expenditure shall be made for the ordinary operation and maintenance of Pioneer Manor.

(3) Section 35 of the said Act is repealed.

(4) Subsection 103 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 48, is amended by inserting after “5” in the first line “78a, 78b”.

(5) The said subsection 103 (1) is further amended by inserting after “106” in the first line “112”.

REGIONAL MUNICIPALITY OF WATERLOO

9.—(1) Subsection 30 (2) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(3) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(4) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Regulations

(5) Notwithstanding that a by-law has not been passed under subsection (2), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluori-
dation of
water supply
in area

(2) Section 105 of the said Act is repealed.

(3) Subsection 151 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 54, is amended by inserting after “5” in the first line “78a, 78b”.

(4) The said subsection 151 (1) is further amended by inserting after “110” in the first line “112”.

REGIONAL MUNICIPALITY OF YORK

10.—(1) Subsection 31 (2) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(3) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(4) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Regulations

Continuation
of fluoridation of
water supply
in area

(5) Notwithstanding that a by-law has not been passed under subsection (2), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(2) Section 107 of the said Act is repealed.

(3) Subsection 153 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 59, is amended by inserting after “5” in the first line “78a, 78b”.

(4) The said subsection 153 (1) is further amended by inserting after “110” in the first line “112”.

Commence-
ment

11.—(1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Idem

(2) Subsections 1 (3), 2 (3), 3 (4), 4 (2) and (5), 5 (4), 6 (5), 7 (3), 8 (4), 9 (3) and 10 (3) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12. The short title of this Act is the *Regional Municipalities Amendment Act, 1987*.

Bill 7

(Chapter 22
Statutes of Ontario, 1987)

An Act to amend certain Acts respecting Regional Municipalities

The Hon. B. Grandmaître
Minister of Municipal Affairs

<i>1st Reading</i>	April 29th, 1987
<i>2nd Reading</i>	June 2nd, 1987
<i>3rd Reading</i>	June 4th, 1987
<i>Royal Assent</i>	June 29th, 1987

Bill 7

1987

**An Act to amend certain Acts respecting
Regional Municipalities**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

REGIONAL MUNICIPALITY OF DURHAM

1.—(1) The *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

52a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*. Fluoridation
system
R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality. Non-
application

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act. Regulations

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection. Continuation
of fluori-
dation of
water supply
in area

(2) Section 90 of the said Act is repealed.

(3) Subsection 129 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 5, is amended by inserting after "5" in the first line "78a, 78b".

(4) The said subsection 129 (1) is further amended by inserting after "109" in the second line "112".

REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

2.—(1) Section 64 of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is repealed.

(2) The said Act is amended by adding thereto the following section:

Fluoridation
system

R.S.O. 1980,
c. 171

74a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Non-
application

(2) The *Fluoridation Act* does not apply to any area municipality.

Regulations

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Continuation
of fluori-
dation of
water supply
in area

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(3) Subsection 111 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 12, is amended by inserting after "5" in the first line "78a, 78b".

(4) The said subsection 111 (1) is further amended by inserting after "109" in the second line "112".

REGIONAL MUNICIPALITY OF HALTON

3.—(1) The *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Trust fund
disbursement

71a. The trust fund, composed of undisbursed interest accumulated prior to the 2nd day of November, 1980 on the trust accounts of residents of the Regional Municipality of Halton Homes for the Aged, is vested in the Regional Corporation for distribution of both the fund and interest accruing thereon by the Regional Council in its absolute discretion for the general benefit of the residents of the Regional Municipality of Halton Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

(2) Section 75 of the said Act is repealed.

(3) The said Act is further amended by adding thereto the following section:

85a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Fluoridation system

R.S.O. 1980, c. 171

(2) The *Fluoridation Act* does not apply to any area municipality.

Non-application

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Regulations

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation of fluoridation of water supply in area

(4) Subsection 122 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 17, is amended by inserting after "5" in the first line "78a, 78b".

(5) The said subsection 122 (1) is further amended by inserting after "109" in the second line "112".

REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

4.—(1) The *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

39a.—(1) The Regional Council may by by-law authorize agreements between the Regional Corporation and the owners or lessees of land abutting on a highway under the jurisdiction and control of the Regional Corporation for the construction, maintenance and use of buildings or parts thereof, over, across or under the highway upon such terms and conditions as may be agreed and for leasing or licensing the use of the air space over the highway or the lands under the highway to such persons and for such consideration and upon such terms and conditions as may be agreed.

Agreements respecting highways

(2) An agreement made under subsection (1) that affects a highway or a highway right of way that is a connecting link, within the meaning of section 21 of the *Public Transportation and Highway Improvement Act* shall have no effect until

Approval of agreement

R.S.O. 1980, c. 421

approved by the Minister of Transportation and Communications.

(2) Subsection 79 (2) of the said Act is repealed.

(3) Section 86 of the said Act is repealed.

(4) The said Act is further amended by adding thereto the following section:

Fluoridation
system

R.S.O. 1980,
c. 171

96a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Non-
application

(2) The *Fluoridation Act* does not apply to any area municipality.

Regulations

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Continuation
of fluori-
dation of
water supply
in area

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(5) Subsection 133 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 46, section 4, is amended by inserting after “5” in the first line “78a, 78b”.

(6) The said subsection 133 (1) is further amended by inserting after “110” in the second line “112”.

REGIONAL MUNICIPALITY OF NIAGARA

5.—(1) Subsections 31 (2) and (3) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Fluoridation
system

R.S.O. 1980,
c. 171

(2) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Non-
application

(3) The *Fluoridation Act* does not apply to any area municipality.

(4) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Regulations
R.S.O. 1980,
c. 171

(5) Notwithstanding that a by-law has not been passed under subsection (2), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluori-
dation of
water supply
in area

(2) The said Act is amended by adding thereto the following section:

110a. The trust fund, composed of undisbursed interest accumulated prior to the 1st day of January, 1984 on the trust accounts of residents of the Regional Municipality of Niagara Homes for the Aged, is vested in the Regional Corporation for distribution of both the fund and interest accruing thereon by the Regional Council in its absolute discretion for the general benefit of the residents of the Regional Municipality of Niagara Homes for the Aged, provided that no expenditure shall be made for the ordinary operation and maintenance of the Homes.

Trust fund
disbursement

(3) Section 112 of the said Act is repealed.

(4) Subsection 161 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 31, is amended by inserting after “5” in the first line “78a, 78b”.

(5) The said subsection 161 (1) is further amended by inserting after “109” in the second line “112”.

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

6.—(1) The *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

31a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Regulations

Continuation
of fluoridation of
water supply
in area

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(2) Section 113 of the said Act is repealed.

(3) Subsection 115 (2) of the said Act is amended by inserting after “subsection (1)” in the first line “but subject to section 115a”.

(4) The said Act is further amended by adding thereto the following section:

Day care
service areas

115a.—(1) The Regional Council may by by-law designate as a day care service area any or all of the area municipalities and may pass such additional by-laws to alter the composition of the day care service area by adding or eliminating any area municipality.

Levies for
day care
service areas

(2) The Regional Council in each year shall levy against the area municipalities situate within the day care service area a sum sufficient to meet the costs, as estimated by the Regional Council, of providing day care services in the day care service area and Part IX applies with necessary modifications to a levy made under this section as though it were a levy made by the Regional Council under subsection 121 (1).

Idem

(3) An area municipality within the day care service area may pay the levy imposed on the area municipality under subsection (2) out of its general funds or, subject to the approval of the Municipal Board, may pass one or more by-laws to impose special rates in one or more parts of the area municipality to raise the whole or any part of the levy imposed on the area municipality under subsection (2).

Idem

(4) An area municipality not in the day care service area may pay the amount charged to it by the Regional Council for day care services under subsection 115 (2) out of its general funds or, subject to the approval of the Municipal Board, may pass one or more by-laws to impose special rates in one or more parts of the area municipality to raise the whole or any part of the amount charged to the area municipality under subsection 115 (2).

(5) Subsection 163 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 35, is amended by inserting after “5” in the first line “78a, 78b”.

(6) The said subsection 163 (1) is further amended by,

- (a) inserting after “106” in the first line “112”; and
- (b) striking out “and 54” in the third line and inserting in lieu thereof “54 and 55”.

(7) The said Act is further amended by adding thereto the following section:

165a.—(1) The Regional Council may pass by-laws and enter into agreements to provide for the establishment and operation of a centralized communication system either alone or in concert with the area municipalities and their local boards for the provision of emergency response services in the Regional Area.

Centralized
communi-
cation system

(2) The area municipalities and their local boards may enter into agreements under subsection (1) with the Regional Council.

Agreements

REGIONAL MUNICIPALITY OF PEEL

7.—(1) Section 70 of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is repealed.

(2) The said Act is amended by adding thereto the following section:

80a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(2) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Regulations

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluori-
dation of
water supply
in area

(3) Subsection 117 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 41, is amended by inserting after “5” in the first line “78a, 78b”.

(4) The said subsection 117 (1) is further amended by inserting after "109" in the second line "112".

REGIONAL MUNICIPALITY OF SUDBURY

8.—(1) The *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Fluoridation
system

R.S.O. 1980,
c. 171

25a.—(1) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Non-
application

(2) The *Fluoridation Act* does not apply to any area municipality.

Regulations

(3) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Continuation
of fluori-
dation of
water supply
in area

(4) Notwithstanding that a by-law has not been passed under subsection (1), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(2) The said Act is further amended by adding thereto the following section:

Trust fund
disbursement

33a. The trust fund, composed of undisbursed interest accumulated prior to the 1st day of November, 1984 on the trust accounts of residents of Pioneer Manor, is vested in the Regional Corporation for distribution of both the fund and interest accruing thereon by the Regional Council in its absolute discretion for the general benefit of the residents of Pioneer Manor provided that no expenditure shall be made for the ordinary operation and maintenance of Pioneer Manor.

(3) Section 35 of the said Act is repealed.

(4) Subsection 103 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 48, is amended by inserting after "5" in the first line "78a, 78b".

(5) The said subsection 103 (1) is further amended by inserting after "106" in the first line "112".

REGIONAL MUNICIPALITY OF WATERLOO

9.—(1) Subsection 30 (2) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(3) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(4) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Regulations

(5) Notwithstanding that a by-law has not been passed under subsection (2), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

Continuation
of fluori-
dation of
water supply
in area

(2) Section 105 of the said Act is repealed.

(3) Subsection 151 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 54, is amended by inserting after “5” in the first line “78a, 78b”.

(4) The said subsection 151 (1) is further amended by inserting after “110” in the first line “112”.

REGIONAL MUNICIPALITY OF YORK

10.—(1) Subsection 31 (2) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) The Regional Council may by by-law establish, maintain and operate or discontinue fluoridation systems, as defined in section 1 of the *Fluoridation Act*.

Fluoridation
system

R.S.O. 1980,
c. 171

(3) The *Fluoridation Act* does not apply to any area municipality.

Non-
application

(4) For the purposes of section 9 of the *Fluoridation Act*, fluoridation systems established under this section shall be deemed to be fluoridation systems established under that Act.

Regulations

Continuation
of fluori-
dation of
water supply
in area

(5) Notwithstanding that a by-law has not been passed under subsection (2), the Regional Corporation may continue to fluoridate the water supply of those areas in the Regional Area to which it was supplying fluoridated water immediately before the coming into force of this subsection.

(2) Section 107 of the said Act is repealed.

(3) Subsection 153 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 72, section 59, is amended by inserting after “5” in the first line “78a, 78b”.

(4) The said subsection 153 (1) is further amended by inserting after “110” in the first line “112”.

Commence-
ment

11.—(1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Idem

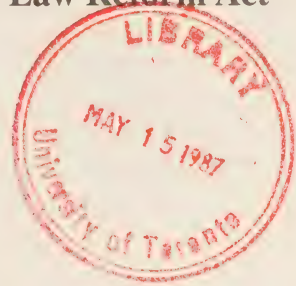
(2) Subsections 1 (3), 2 (3), 3 (4), 4 (2) and (5), 5 (4), 6 (5), 7 (3), 8 (4), 9 (3) and 10 (3) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12. The short title of this Act is the *Regional Municipalities Amendment Act, 1987*.

Bill 8

An Act to amend the Children's Law Reform Act



Mr. O'Connor

1st Reading April 29th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Act provides a new mechanism for the resolution of disputes concerning access to children.

Where an access order already exists, the court may appoint a mediator. On receiving the mediator's report, the court may vary the order in accordance with the terms agreed to by the parties or the terms recommended by the mediator. The court may draw an adverse inference from a party's unwillingness to co-operate in the mediation with respect to his or her ability to act in the best interests of the child.

The court may also order that access to a child be arranged through a supervised access centre established by the Attorney General.

The Bill also adds to the factors to be considered by a court in determining the best interests of the child and the importance of maintaining emotional ties between the child and his or her grandparents.

Bill 8

1987

An Act to amend the Children's Law Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 21 of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

21. A parent or grandparent of a child or any other person may apply to a court for an order respecting custody of or access to the child or determining any aspect of the incidents of custody of or access to the child. Application
for order

2. Subsection 24 (2) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by adding thereto the following clause:

(aa) the importance of maintaining emotional ties between the child and his or her grandparents.

3. Section 35 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by adding thereto the following subsections:

(3) The Attorney General may establish one or more supervised access centres. Supervised
access centres

(4) The purpose of a supervised access centre shall be, Idem

- (a) to provide a neutral place for visits with a child, with or without supervision; and
- (b) to provide a neutral place where a child may be picked up and dropped off by a person exercising a right of access.

4. The said Act is amended by adding thereto the following sections:

Application
for mediation
of
access
disputes

37a.—(1) Subject to subsection (2), where a court is satisfied upon application by a person in whose favour an order has been made for access to a child that there are reasonable and probable grounds for believing that a person in whose favour an order has been made for custody of the child is unlawfully withholding the child from the applicant, the court shall by order appoint a person to mediate the access dispute.

Exceptions

(2) The court shall not make an order under subsection (1) if it is satisfied that,

- (a) any party lacks the ability to participate effectively in the mediation, whether or not the party is willing to participate; or
- (b) the application is not made in good faith.

Purpose of
mediation

(3) The purpose of the mediation shall be to reduce acrimony that may exist between the parties and to obtain an agreement that will assure the child's close and continued relationship with each of the parties.

Agreement
by
parties

(4) The court shall, if possible, appoint a person agreed upon by the parties, but if the parties do not agree the court shall choose and appoint the person.

Qualifica-
tions of
mediator

(5) A person appointed under subsection (1) or (7) shall be skilled in the practice of family mediation.

Consent to
act

(6) The court shall not appoint a person under subsection (1) or (7) unless the person has consented to act as mediator and to file a report with the court within the period of time specified by the court.

Replacement
of mediator

(7) If the court is satisfied upon application made in good faith that,

- (a) there are reasonable grounds for believing that, despite the willingness of the parties to co-operate in the mediation, the mediator is unlikely to obtain an agreement between them; or
- (b) a party has a reasonable apprehension of bias on the part of the mediator,

the court may by order appoint another person to replace the person appointed under subsection (1).

Duties of
mediator

(8) It is the duty of a mediator,

- (a) to confer with the parties and endeavour to obtain an agreement in respect of the access dispute;
- (b) to terminate the mediation if, in the mediator's opinion, its continuation is likely to result in physical or emotional harm to a party;
- (c) to terminate the mediation if, in the mediator's opinion, it is unlikely that its continuation will lead to an agreement between the parties;
- (d) to advise the parties if, in the mediator's opinion, an agreement reached between them is unreasonable or not in the best interests of the child; and
- (e) to promote the best interests of the child.

(9) The mediator may confer with the child who is the subject of the access order, with other members of the child's family and with persons involved in the care and upbringing of the child.

Consultation
with child,
etc.

(10) If, in the mediator's opinion, a party is likely to suffer physical or emotional harm as a result of meeting with another party to the mediation, the mediator may conduct the mediation by meeting with the parties separately.

Consultation
without the
other party

(11) If a party does not co-operate in the mediation, the court may require the party to pay all or a part of the mediator's fees and expenses.

Fees and
expenses

37b.—(1) The mediator shall file a full report on the mediation, including anything that the mediator considers relevant to the access dispute and a statement showing the amount of time the mediator spent conferring with the parties, the child and any other person.

Mediator's
report

(2) The mediator shall include in the report,

Idem

- (a) a statement of the terms that the parties have agreed to with respect to the custody of or access to the child, signed by the parties; or
- (b) a statement that the parties did not reach agreement.

(3) If, in the opinion of the mediator, the parties failed to reach agreement as a result of the unwillingness of either of them to co-operate in the mediation, the mediator shall include a statement to that effect in the report.

Non-
co-operation

Recommendations

(4) The mediator may recommend in the report,

- (a) that the terms of the order in respect of the custody of or access to the child be varied in accordance with the terms agreed to by the parties or the terms, if any, recommended by the mediator;
- (b) that the child or any person with a right to custody of or access to the child obtain individual or family counselling;
- (c) that any person with a right to custody of or access to the child participate in a parental education program;
- (d) that access to the child be carried out under supervision or at a supervised access centre established under subsection 35 (3); or
- (e) any other measure likely to resolve the access dispute.

Filing of report

(5) The mediator shall file the report with the clerk or registrar of the court.

Copies of report

(6) The clerk or registrar of the court shall give a copy of the report to each of the parties, to their counsel and to counsel, if any, representing the child.

Powers of court

37c.—(1) On motion, the court may,

- (a) by order vary an order in respect of custody or access in accordance with the terms agreed to by the parties or the terms recommended by the mediator;
- (b) by order require a party to implement any of the mediator's recommendations; and
- (c) make any other order the court considers necessary and proper in the circumstances.

Effect of party's non-co-operation

(2) If a party was unwilling to co-operate in the mediation, the court may draw an adverse inference in respect of the party's ability and willingness to act in the best interests of the child.

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

6. The short title of this Act is the *Children's Law Reform Amendment Act, 1987*. Short title

Bill 9

An Act respecting Environmental Rights in Ontario

Mrs. Grier



1st Reading April 29th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for environmental rights in Ontario. The Bill permits an action to be brought in the Supreme Court of Ontario by any person for the protection of the environment. The Bill also provides for public notice and review of certain approvals, permits or other environment-related orders before the approvals, permits or orders come into force. Other provisions of the Bill provide for public access to information relating to environmental decisions and for regular review by the Environmental Assessment Board of all regulations affecting the environment. The Bill also permits the Lieutenant Governor in Council to establish a fund to assist persons and public interest groups for the purpose of ensuring that points of view representative of significant bodies of opinion are adequately represented in environmental proceedings.

Bill 9**1987****An Act respecting Environmental Rights in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I**INTERPRETATION AND PURPOSE****1. In this Act,**

Definitions

“Board” means the Environmental Assessment Board established under the *Environmental Assessment Act*;

R.S.O. 1980,
c. 140

“contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of people which may,

- (a) impair the quality of the environment or the public trust therein for any use that can be made of it,
- (b) cause injury or damage to property or to plant or animal life,
- (c) cause harm or material discomfort to any person,
- (d) adversely affect the health or impair the safety of any person, or
- (e) render any property or plant or animal life unfit for use by people,

and “contamination” has a corresponding meaning;

“Court” means the Supreme Court of Ontario;

“degradation” refers to any destruction or significant decrease in the quality of the environment or the public trust therein

other than a change resulting from contamination and “degrade” has a corresponding meaning;

“environment” means,

- (a) air, land or water,
- (b) plant and animal life, including people,
- (c) the social, economic and cultural conditions that influence the life of people or a community,
- (d) any building, structure, machine or other device or thing made by people,
- (e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of people, or
- (f) any part or combination of the foregoing and the inter-relationships between any two or more of them,

in or of Ontario;

“Minister” means the Minister of the Environment;

“public trust” means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;

“regulation” means a regulation made under an Act listed in the Schedule to this Act.

Environ-
mental
rights

2.—(1) The people of Ontario have a right to clean air, pure water and the preservation of the natural, scenic, historic and aesthetic values of the environment.

Idem

(2) Ontario’s public lands, waters and natural resources are the common property of all the people, including generations yet to come, and, as trustee of those lands, waters and resources, the Government of Ontario shall conserve and maintain them for the benefit of present and future generations.

Declaration

(3) It is hereby declared that it is in the public interest to provide every person with an adequate remedy to protect and conserve the environment and the public trust therein from contamination and degradation.

3.—(1) A person who considers that the environment is being contaminated or degraded may in writing, specifying the nature of the contamination or degradation, request that the Minister investigate the alleged contamination or degradation.

Request for investigation

(2) Where the Minister receives a written request under subsection (1) and is satisfied that the request is made in good faith and is not frivolous, the Minister shall make, or cause to be made, any investigation that he or she considers necessary of the alleged contamination or degradation, its source, its effect on the environment and of any advisable remedial action.

Written request

(3) Upon an investigation referred to in subsection (2) being completed, the Minister shall provide a copy of the resulting report to the person who requested the investigation.

Report

PART II

CAUSE OF ACTION

4.—(1) Where an activity has contaminated or degraded or an activity is likely to commence, is commencing or is continuing that threatens to contaminate or degrade the environment, any person may commence an action in the Supreme Court of Ontario, without having to show any greater or different right, harm or interest than that of other members of the public or any pecuniary or proprietary right or interest in the subject-matter of the proceedings, against,

Right of action

- (a) any person who is responsible for the activity; and
- (b) any Minister responsible for regulatory, fiscal or proprietary control of the activity.

(2) Subsection (1) applies without any requirement that the person commencing the action allege or establish that there had been an infringement of an approval, permit, licence, standard, regulation, rule or order established by or under an Act listed in the Schedule.

Idem

(3) In an action commenced under this section, if the activity complained of is not governed by any legally established standard, the Court may hear evidence as to the standard, if any, that should apply to the defendant, having regard to,

Court may determine standard

- (a) the right of the people of Ontario to the protection of the environment and the public trust therein against contamination or degradation;

- (b) the fulfillment of the widest range of beneficial uses of the environment without contamination or degradation; and
- (c) the achievement of a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities,

and the Court may order the defendant to comply with such standard as it may determine.

Security
for costs
or damages

5.—(1) At any time prior to a trial of the issue in any action commenced under this Act, any defendant or third party may apply to the Court for an order requiring the person bringing the action to post security for costs or damages.

Notice

(2) An application under subsection (1) shall be on notice to all parties and the Court may hear argument concerning the application from any party as to,

- (a) the seriousness of the offence or harm alleged;
- (b) the consequences to the defendant of the order sought; or
- (c) any other matter that the Court considers relevant to the posting of security for costs or damages.

Limitation
on order

(3) Upon the completion of the hearing referred to in subsection (2), if the Court is satisfied that the person bringing the action,

- (a) has a *prima facie* case to bring before the Court; and
- (b) is bringing the action for the protection of the environment or the public trust therein,

the Court shall not order the posting of security for costs or damages in an amount in excess of \$500.

Onus

6.—(1) Where the activity of the defendant that is the subject-matter of an action is not governed by a standard established by or under an Act listed in the Schedule or pursuant to subsection 3 (3) and where the plaintiff has established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the quality of the environment, the onus shall be on the defendant to establish in defence that there is no feasible and prudent alternative to the defendant's activity and that such activity is in the best

interests of the public having regard to the matters set out in subsection 4 (3).

(2) It shall be a defence to an action commenced under this Act that the activity of the defendant that is the subject-matter of this action is authorized by a standard established by or under an Act listed in the Schedule unless the plaintiff can establish, on a balance of probabilities, that the activity has caused or is likely to cause severe or irreparable contamination or degradation to the environment. Defence

(3) It shall not be a defence to an action commenced under this Act that, Prohibited defences

- (a) the defendant is not the sole cause of the alleged or potential contamination or degradation; or
- (b) it cannot be established that the contaminant which the defendant discharged or deposited or permitted to be discharged or deposited was the cause, in fact, of the contamination or degradation of the environment or the public trust therein, where the effect on the environment is of a nature consistent with the contaminant or source of degradation being the total or partial, immediate or mediate cause.

7. In an action commenced under this Act, where it has been established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the environment, the Court may grant either an interim or permanent injunction, order the defendant to remedy any damage caused by his activity, award damages, impose conditions on the defendant or make such other order as the Court may consider is necessary. Injunction, etc.

8.—(1) The Court may, Reference

- (a) on the motion of any party; or
- (b) on its own motion,

refer any question or questions, except the final determination of the issue in question, to the Board as the Court may consider appropriate and the proceedings before the Board shall be conducted in accordance with and subject to the provisions of the *Statutory Powers Procedure Act* and when so referring, the Court may also grant an interim injunction or such other temporary relief as the Court considers necessary for the protection of the environment or the public trust therein pending

final determination of the issue and, in so referring, the Court shall retain jurisdiction of the action.

Order

(2) When the Board has completed its review and consideration of the question referred to it under subsection (1), the Board shall make recommendations concerning the matter in question to the Court, and the Court shall review the recommendations and make such order as it considers appropriate under section 7.

Inspector

9.—(1) In any action under this Act, the Court may appoint an inspector, who shall be a disinterested person and qualified as an expert in the relevant field, to take technical and scientific testimony under oath and make a record thereof and the inspector shall report his or her findings and opinion thereon to the Court without prejudice to the right of any party to examine the inspector or any person who has given testimony to the inspector.

Costs

(2) The Court may order that the costs of the inspector be paid in such manner and by such persons as the Court considers appropriate.

PART III

PARTIES, INTERVENORS *AMICUS CURIAE*, CLASS ACTIONS

Parties,
etc.

10. Whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, the board, tribunal, commission or court may permit any person to join as a party, intervenor or *amicus curiae* to the proceeding, appeal or review as the board, tribunal, commission or court may consider appropriate having regard to the purpose of this Act.

Class
actions

11.—(1) In an action under this Act, the Court may by order permit one or more persons to act as representatives of a class of persons where, in the opinion of the Court,

- (a) the claims of the representative party are typical of the claims of the class;
- (b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;
- (c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and

- (d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

(2) The Court may provide in the judgment of a class action for subsequent determination of the amount and distribution of damages assessed against the defendant. Judgment

PART IV

INSTRUMENTS AND REGULATIONS

12.—(1) In this section,

Definitions

“appropriate board” means any board, tribunal or commission established by an Act listed in the Schedule empowered to hold hearings with respect to a matter relating to such Act, and where no such board exists, the Board;

“instrument” means any licence, permit, approval, certificate of approval, program approval, control order or other order made under an Act listed in the Schedule that would permit a person to contaminate or degrade the environment in contravention of any such Act or the regulations made thereunder;

“proper authority” means any authority designated by an Act listed in the Schedule empowered to issue any instrument pursuant to any such Act.

(2) Notwithstanding any other Act, no instrument shall have force and effect unless the proper authority has given notice of the proposed provisions of the instrument by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario and that is in accordance with the other provisions of this section. Notice of
proposed
instrument

(3) Any person may, within thirty days of the giving of notice or within such longer time as may be stated in the notice, Submissions

- (a) make written submissions to the proper authority with respect to the proposed provisions of the instrument; and
- (b) by written notice to the proper authority request a hearing by the appropriate board with respect to the proposed provisions of the instrument.

Idem

(4) Where the proper authority has received notice of a request for a hearing, it shall refer the matter to the appropriate board unless, in the opinion of the authority, the request is not made in good faith or is frivolous or is made only for the purpose of delay.

Idem

(5) Where the proper authority has declined to refer the matter to the appropriate board under subsection (4), the proper authority shall give notice for a hearing under subsection (3), together with written reasons therefor.

Where instrument may be issued

(6) Where there is no notice of a request for a hearing under subsection (3), or where the proper authority has declined to refer the matter to the appropriate board under subsection (4), the proper authority may issue the proposed instrument,

- (a) where there is no notice of a request for a hearing, not less than ten days after the time for filing such notice has elapsed;
- (b) where the proper authority has declined to refer the matter to the relevant board, not less than twenty days after the time for filing such notice has elapsed.

Review of instrument

(7) Any person may make an application to the Board requesting the Board to review an existing instrument having regard to the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, especially in the light of technological advances that can be applied in the Province of Ontario and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked.

Preliminary hearing

(8) The Board shall hold a preliminary hearing to determine whether a *prima facie* case has been made in an application under subsection (7) unless the Board is of the opinion that the application is not made in good faith or is frivolous.

Notice

(9) Where the Board decides not to hold a preliminary hearing under subsection (8), or where the Board decides that a *prima facie* case has not been made under subsection (7), the Board shall give notice of its decision to the person making the application, together with written reasons therefor.

Notice of hearing

(10) Where the appropriate board holds a hearing under subsection (4) or (7), the appropriate board shall,

- (a) appoint a time and place for the hearing at a city or town convenient to persons likely to be affected by the contamination or degradation;
- (b) cause notice to be given of the hearing,
 - (i) to the proper authority,
 - (ii) to any person who submitted notice to the proper authority under subsection (3),
 - (iii) to any person who submitted notice to the Board under subsection (7),
 - (iv) to any person as the appropriate board may direct, and
 - (v) to the public, by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario.

(11) Any hearing initiated under the provisions of this section shall be conducted according to the rules and procedures that apply to the appropriate board, including the rules and procedures established by this Act. Procedure

(12) Upon the completion of the hearing, the appropriate board may make such recommendations, order or decision in respect of the matter referred to it under this section as the board is empowered to make pursuant to its enabling Act. Recommendations, etc.

(13) The proper authority may, in an emergency situation, issue an instrument that it is empowered to issue pursuant to an Act listed in the Schedule without complying with the other provisions of this section but, where the authority issues an instrument in an emergency situation, the authority shall take steps to comply with the provisions of this section within sixty days of the date on which the instrument was issued. Emergencies

13.—(1) In 1987 and every fifth year thereafter, the Board shall review all regulations that relate to the quality of the environment having regard to their adequacy to protect the environment and the public trust therein from contamination and degradation, especially in the light of technological advances that can be applied in the Province of Ontario. Review of regulations

(2) The Board shall give public notice of the review and, during the review, may receive public submissions and evidence to the extent and in the manner that it considers appropriate. Public notice

Report

(3) Upon completion of the review, the Board shall make a report thereon to the designated Minister, including in the report any recommended changes to the regulations, and the designated Minister, after receiving the report shall then lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Notice of
proposed
regulation

14.—(1) In this section, “regulation-making authority” means any authority designated by an Act listed in the Schedule empowered to make any regulation under any such Act.

Publication

(2) Where a regulation-making authority proposes to make a regulation, it shall cause the proposed regulation to be published in *The Ontario Gazette* at least sixty days before it proposes to file the regulation with the Registrar of Regulations and request briefs or submissions in relation to the proposed regulation.

Effect of
contravention

(3) A regulation filed in contravention of subsection (2) does not come into effect.

PART V

ACCESS TO INFORMATION

Definition

15.—(1) In this section, “designated Minister” means any minister designated by an Act listed in the Schedule to administer and enforce the provisions of any such Act.

Right to
information

(2) Every person has the right to obtain from any designated Minister any available information concerning the quantity, quality or concentration of contaminants emitted, issued, discharged or deposited by any source of contamination or degradation.

Right to
examine

(3) The designated Minister shall permit any person who applies therefor to examine any licence, permit, approval, certificate of approval, provisional certificate of approval, control order or other order, notice of intention to issue a control order, program approval, provisional certificate of approval, notice of violation of an Act listed in the Schedule, and any information in support of any such document, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

Idem

(4) The designated Minister shall permit any person who applies therefor to examine any report on any test, observation, inspection or analysis carried out by or under the Minister's authority relating to any operation subject to an Act

listed in the Schedule under the Minister's jurisdiction, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

(5) Notwithstanding subsections (3) and (4), the designated Minister may refuse an application made under subsections (3) and (4) where, in his or her opinion, the information sought to be disclosed contains,

Where disclosure may be reduced

- (a) information the disclosure of which would be injurious to law enforcement or the conduct of lawful investigations, including investigative techniques or plans for specific lawful investigations;
- (b) information containing personal information respecting an identifiable individual including, without restricting the generality of the foregoing,
 - (i) vital statistics,
 - (ii) background personal information,
 - (iii) medical, criminal, educational or employment records or history,
 - (iv) the personal opinions or views of the individual, unless those opinions or views are given in the course of employment in the public service of the Government of Ontario;
- (c) information of a financial, commercial, scientific or technical sort,
 - (i) the disclosure of which could reasonably be expected to prejudice significantly the competitive position, or interfere significantly with contractual or other negotiations, of a person, group of persons, organization or government institution, or
 - (ii) the disclosure of which could reasonably be expected to result in undue financial loss or gain by a person, group of persons, organization or government institution,

and which, without restricting the generality of the foregoing, includes confidential technology, trade secrets, marketing information, customer lists, advertising budgets and funding sources; or

- (d) records of proposals and recommendations to and deliberations and proceedings of the Executive Council or any committee thereof.

Notice

(6) Where the designated Minister, under subsection (5), refuses an application for disclosure of information, he or she shall, within twenty days, so inform the applicant, together with written reasons thereof, and the Minister shall inform the applicant of the applicant's right of appeal to the Board.

Hearing

(7) Any applicant may, within fifteen days of receipt of a notice under subsection (6), by written notice served upon the designated Minister and the Board, require a hearing before the Board.

Idem

(8) In a hearing under subsection (7), the Board shall take every precaution, including, when appropriate, receiving representations without notice and conducting hearings in private, to avoid disclosure by the Board or any other person of any information the disclosure of which may be refused under this section.

Onus

(9) In a hearing under subsection (7), the onus of establishing that access to the information may be refused shall be on the designated Minister concerned.

Order

(10) At the conclusion of the hearing, the Board may make such order as it considers appropriate, having regard to the provisions of this section, and without restricting the generality of the foregoing, may,

- (a) order the disclosure of all or part of the information sought to be disclosed; or
- (b) where the Board has determined that the information should not be disclosed, order that a non-confidential summary of all or any part of the information be prepared.

Appeal

(11) An appeal lies to the Divisional Court of Ontario from a decision of the Board on a point of law or jurisdiction.

PART VI

PUBLIC INTEREST FUNDING

Definition

16.—(1) In this section, "Fund" means the Environmental Hearing Assistance Fund.

(2) The Lieutenant Governor in Council may establish a fund to be known as the Environmental Hearing Assistance Fund. Fund

(3) Where a Fund has been established under subsection (2), the moneys required for the purposes of the Fund shall be paid out of the Consolidated Revenue Fund in the fiscal year during which it is established and thereafter shall be paid out of the moneys appropriated therefor by the Legislature. Idem

(4) Subject to subsection (5), whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, any party or intervenor who engages in proceedings for the purpose of protecting and conserving the environment may, at any time, make an application for financial assistance to the Board. Financial assistance

(5) A person may apply under subsection (4) only where that person, Idem

- (a) represents an interest representative of significant bodies of opinions that would otherwise not be represented at the proceedings; and
- (b) does not have sufficient financial resources to enable him to adequately represent that interest.

(6) Where a Fund is available and the Board is satisfied financial assistance is appropriate, the Board may order that a sum be paid to the applicant therefor from the Fund in such manner, at such times and in such amount as the Board considers appropriate. Idem

(7) No person is precluded from applying under subsection (4) by reason only that he has previously received financial assistance under subsection (6). Idem

(8) Where it appears to the Board that several parties or intervenors having identical or substantially similar interests have applied for financial assistance from the Board, the Board may consolidate the applications and make such order concerning payment as it considers appropriate. Consolidating applications

(9) In considering the sum to be awarded to any applicant, the Board shall have regard to all the attendant costs associated with participating in the proceedings, including, Matters to be considered

- (a) legal fees;

- (b) disbursements;
- (c) conduct money;
- (d) witness fees;
- (e) fees for relevant reports and studies; and
- (f) any other cost that is relevant and appropriate to participation in the proceedings.

PART VII

EMPLOYEE RIGHTS

No discipline,
dismissal,
etc.,
by employer

17.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to the appropriate authority an act that contaminates or degrades the environment.

Penalty
for
offence

(2) Where an employer is convicted of an offence under subsection (1), the provincial judge making the conviction shall, in addition to the penalty, order what action the employer shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with compensation for loss of wages and other benefits to be assessed against the employer.

Offence

(3) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

PART VIII

MISCELLANEOUS

Common law
remedies
preserved

18. Nothing herein contained shall be construed so as to repeal, remove or reduce any existing remedy available at law to any person.

19. Where a conflict appears between any other Act, including the *Environmental Protection Act*, the provision of this Act shall prevail.

Conflict
R.S.O. 1980,
c. 141

20. This Act binds the Crown.

Crown

21. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

22. The short title of this Act is the *Ontario Environmental Rights Act, 1987*.

Short title

SCHEDULE

Conservation Authorities Act

Consolidated Hearings Act, 1981

Drainage Act

Environmental Assessment Act

Environmental Protection Act

Mining Act

Niagara Escarpment Planning and Development Act

Ontario Waste Management Corporation Act, 1981

Ontario Water Resources Act

Pesticides Act

Pits and Quarries Control Act

Planning Act, 1983

Bill 10

An Act to amend the Landlord and Tenant Act

Mr. Reville



1st Reading April 29th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to ensure that roomers, boarders and lodgers are covered as tenants in Part IV of the *Landlord and Tenant Act*, which deals with residential tenancies.

Bill 10**1987****An Act to amend the Landlord and Tenant Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 81 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(f) “tenant” includes a roomer, a boarder and a lodger.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Landlord and Tenant Amendment Act, 1987*. Short title

Bill 10

An Act to amend the Landlord and Tenant Act

Mr. Reville



1st Reading April 29th, 1987

2nd Reading May 14th, 1987

3rd Reading

Royal Assent

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTE

The purpose of the Bill is to ensure that roomers, boarders and lodgers are covered as tenants in Part IV of the *Landlord and Tenant Act*, which deals with residential tenancies.

Bill 10

1987

An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:



1.—(1) Subclauses 1 (c) (i) and (iii) of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

- (i) any premises used or intended for use for residential purposes, including accommodation in a boarding house, rooming house or lodging house,

.

- (iii) premises occupied for business or agricultural purposes with living accommodation attached under a single lease unless the tenant occupying the living accommodation is a person other than the person occupying the premises for business or agricultural purposes, in which case the living accommodation shall be deemed residential premises.

(2) Clause 1 (c) of the said Act is amended by adding thereto the following subclauses:

- (v) premises whose occupant or occupants are required to share a bathroom or kitchen facility with the owner, the owner's spouse, child or parent, or the spouse's child or parent, where the owner, spouse, child or parent lives in the building in which the premises are located,
- (vi) accommodation provided by an educational institution to its students or staff where,
 - (A) the accommodation is provided primarily to persons under the age of majority, or

(B) all major questions related to the accommodation are decided after consultation with a council or association representing the residents, unless the accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupation by full-time students or staff and members of their households,

(vii) accommodation provided to the travelling and vacationing public in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast establishment or farm vacation home,

R.S.O., 1980,
cc. 410, 389,
79, 263, 202,
203, 201,
320, 275, 64,
118, 280,
273
1984, c. 55

(viii) accommodation that is subject to the *Public Hospitals Act*, the *Private Hospitals Act*, the *Community Psychiatric Hospitals Act*, the *Mental Hospitals Act*, the *Homes for Special Care Act*, the *Homes for the Aged and Rest Homes Act*, the *Homes for Retarded Persons Act*, the *Nursing Homes Act*, the *Ministry of Correctional Services Act*, the *Charitable Institutions Act*, the *Child and Family Services Act, 1984*, the *Developmental Services Act*, the *Ministry of Health Act* or the *Ministry of Community and Social Services Act*,

(ix) accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care,

(x) short term accommodation provided as emergency shelter, or

(xi) accommodation, whether situated on or off a farm, where occupancy of the premises is conditional upon the occupant continuing to be employed on the farm.

2.—(1) Clause 81 (e) of the said Act is amended by adding at the end thereof “and includes a licence to occupy residential premises”.

(2) Section 81 of the said Act is amended by adding thereto the following clause:

(f) “tenant” means a tenant as defined in clause 1 (e) and in addition includes a boarder, a roomer and a lodger.

3. Subsection 84 (1) of the said Act is repealed and the following substituted therefor:

(1) A landlord shall not require or receive a security deposit from a tenant under a tenancy agreement other than the rent for one rent period, but not in any event exceeding one month, which payment shall be applied in payment of the rent for the last rent period immediately preceding the termination of the tenancy.

Security deposits

4. Section 93 of the said Act is amended by adding thereto the following subsection:

(2) Where a tenancy agreement requires the landlord to clean the rented premises at regular intervals, the landlord may enter the premises in order to perform that obligation in accordance with the tenancy agreement, without giving the notice referred to in subsection (1).

Entry by landlord to clean premises

5. Subsection 96 (2) of the said Act is repealed and the following substituted therefor:

(2) The tenant is responsible for ordinary cleanliness of the rented premises, except to the extent that the tenancy agreement requires the landlord to clean them.

Responsibility for cleanliness

(2a) The tenant is responsible for the repair of damage caused by the wilful or negligent conduct of the tenant or of persons who are permitted on the premises by the tenant.

Tenant's responsibility for damage

6. Subsections 108 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

(1) Notwithstanding section 100, 101, 102, 103, 104 or 105, where a tenant fails to pay rent in accordance with a tenancy agreement, the landlord may serve on the tenant notice of termination of the tenancy agreement effective not earlier than,

Early termination for non-payment of rent

- (a) in the case of a daily or weekly tenancy, the seventh day; and
- (b) in the case of a tenancy other than a daily or weekly tenancy, the twentieth day,

after the notice is given.

(2) The notice of termination shall specify the right of the tenant to avoid the termination of the tenancy by payment of the rent demanded,

Notice to specify right of tenant

- (a) in the case of a daily or weekly tenancy, within seven days; and
- (b) in the case of a tenancy other than a daily or weekly tenancy, within fourteen days,

of the tenant receiving the notice of termination.

Notice void
where rent
paid

(3) Where a tenant who received notice of termination under subsection (1) pays to the landlord the rent that is due in accordance with the tenancy agreement and within,

- (a) in the case of a daily or weekly tenancy, seven days; and
- (b) in the case of a tenancy other than a daily or weekly tenancy, fourteen days,

of the day the tenant receives the notice, the notice of termination is void and of no effect.

Application
by landlord
under s. 113

(4) Where a tenant fails to pay the rent demanded,

- (a) in the case of a daily or weekly tenancy, within the seven days mentioned in clause (2) (a); and
- (b) in the case of a tenancy other than a daily or weekly tenancy, within the fourteen days mentioned in clause (2) (b),

the landlord is entitled to make application forthwith under section 113.

7. Clause 121 (4) (a) of the said Act is amended by inserting after “water” in the second line “food”.

Commence-
ment and
application

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor and applies to tenancies under tenancy agreements entered into or renewed before and subsisting on that day or entered into on or after that day.



Short title

9. The short title of this Act is the *Landlord and Tenant Amendment Act, 1987*.

Bill 10

*(Chapter 23
Statutes of Ontario, 1987)*

An Act to amend the Landlord and Tenant Act

Mr. Reville



<i>1st Reading</i>	April 29th, 1987
<i>2nd Reading</i>	May 14th, 1987
<i>3rd Reading</i>	June 29th, 1987
<i>Royal Assent</i>	June 29th, 1987

Bill 10

1987

An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subclauses 1 (c) (i) and (iii) of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

- (i) any premises used or intended for use for residential purposes, including accommodation in a boarding house, rooming house or lodging house,

.

- (iii) premises occupied for business or agricultural purposes with living accommodation attached under a single lease unless the tenant occupying the living accommodation is a person other than the person occupying the premises for business or agricultural purposes, in which case the living accommodation shall be deemed residential premises.

(2) Clause 1 (c) of the said Act is amended by adding thereto the following subclauses:

- (v) premises whose occupant or occupants are required to share a bathroom or kitchen facility with the owner, the owner's spouse, child or parent, or the spouse's child or parent, where the owner, spouse, child or parent lives in the building in which the premises are located,
- (vi) accommodation provided by an educational institution to its students or staff where,
 - (A) the accommodation is provided primarily to persons under the age of majority, or

- (B) all major questions related to the accommodation are decided after consultation with a council or association representing the residents, unless the accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupation by full-time students or staff and members of their households,
- (vii) accommodation provided to the travelling and vacationing public in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast establishment or farm vacation home,
- (viii) accommodation that is subject to the *Public Hospitals Act*, the *Private Hospitals Act*, the *Community Psychiatric Hospitals Act*, the *Mental Hospitals Act*, the *Homes for Special Care Act*, the *Homes for the Aged and Rest Homes Act*, the *Homes for Retarded Persons Act*, the *Nursing Homes Act*, the *Ministry of Correctional Services Act*, the *Charitable Institutions Act*, the *Child and Family Services Act, 1984*, the *Developmental Services Act*, the *Ministry of Health Act* or the *Ministry of Community and Social Services Act*,
- (ix) accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care,
- (x) short term accommodation provided as emergency shelter, or
- (xi) accommodation, whether situated on or off a farm, where occupancy of the premises is conditional upon the occupant continuing to be employed on the farm.

R.S.O., 1980,
cc. 410, 389,
79, 263, 202,
203, 201,
320, 275, 64,
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273
1984, c. 55

2.—(1) Clause 81 (e) of the said Act is amended by adding at the end thereof “and includes a licence to occupy residential premises”.

(2) Section 81 of the said Act is amended by adding thereto the following clause:

- (f) “tenant” means a tenant as defined in clause 1 (e) and in addition includes a boarder, a roomer and a lodger.

3. Subsection 84 (1) of the said Act is repealed and the following substituted therefor:

(1) A landlord shall not require or receive a security deposit from a tenant under a tenancy agreement other than the rent for one rent period, but not in any event exceeding one month, which payment shall be applied in payment of the rent for the last rent period immediately preceding the termination of the tenancy.

Security deposits

4. Section 93 of the said Act is amended by adding thereto the following subsection:

(2) Where a tenancy agreement requires the landlord to clean the rented premises at regular intervals, the landlord may enter the premises in order to perform that obligation in accordance with the tenancy agreement, without giving the notice referred to in subsection (1).

Entry by landlord to clean premises

5. Subsection 96 (2) of the said Act is repealed and the following substituted therefor:

(2) The tenant is responsible for ordinary cleanliness of the rented premises, except to the extent that the tenancy agreement requires the landlord to clean them.

Responsibility for cleanliness

(2a) The tenant is responsible for the repair of damage caused by the wilful or negligent conduct of the tenant or of persons who are permitted on the premises by the tenant.

Tenant's responsibility for damage

6. Subsections 108 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

(1) Notwithstanding section 100, 101, 102, 103, 104 or 105, where a tenant fails to pay rent in accordance with a tenancy agreement, the landlord may serve on the tenant notice of termination of the tenancy agreement effective not earlier than,

Early termination for non-payment of rent

(a) in the case of a daily or weekly tenancy, the seventh day; and

(b) in the case of a tenancy other than a daily or weekly tenancy, the twentieth day,

after the notice is given.

(2) The notice of termination shall specify the right of the tenant to avoid the termination of the tenancy by payment of the rent demanded,

Notice to specify right of tenant

- (a) in the case of a daily or weekly tenancy, within seven days; and
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of the tenant receiving the notice of termination.

Notice void
where rent
paid

(3) Where a tenant who received notice of termination under subsection (1) pays to the landlord the rent that is due in accordance with the tenancy agreement and within,

- (a) in the case of a daily or weekly tenancy, seven days; and
- (b) in the case of a tenancy other than a daily or weekly tenancy, fourteen days,

of the day the tenant receives the notice, the notice of termination is void and of no effect.

Application
by landlord
under s. 113

(4) Where a tenant fails to pay the rent demanded,

- (a) in the case of a daily or weekly tenancy, within the seven days mentioned in clause (2) (a); and
- (b) in the case of a tenancy other than a daily or weekly tenancy, within the fourteen days mentioned in clause (2) (b),

the landlord is entitled to make application forthwith under section 113.

7. Clause 121 (4) (a) of the said Act is amended by inserting after “water” in the second line “food”.

Commence-
ment and
application

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor and applies to tenancies under tenancy agreements entered into or renewed before and subsisting on that day or entered into on or after that day.

Short title

9. The short title of this Act is the *Landlord and Tenant Amendment Act, 1987*.

Bill 11



An Act to provide an Incentive to Ontario Employees of Small and Medium Sized Corporations to Purchase Newly Issued Shares of their Employer Corporation

The Hon. R. Nixon
Minister of Revenue

1st Reading April 30th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to implement the proposal contained in the Treasurer's Budget of May 13th, 1986, to establish an incentive program to encourage employees of small and medium sized corporations to purchase newly-issued shares of their employer. The principal features of the Bill are as follows:

1. Corporations incorporated in Canada which pay at least 25 per cent of their salaries and wages in Ontario and whose gross revenue or total assets together with the gross revenue or total assets of associated corporations, does not exceed \$50 million in the previous taxation year may apply to register an employee share ownership plan.
2. Corporations otherwise eligible will continue to be eligible until their gross revenue and their total assets, together with the total assets and gross revenue of associated corporations, both exceed \$75 million.
3. The mandatory provisions to be contained in such a plan include the offering of newly-issued voting shares to all eligible employees, a method of valuation that applies to all common shares of the employer corporation, the provision of terms for the purchase, sale, transfer or redemption of those shares, the provision of financial information and advice on the *Securities Act* to employees, and the appointment of an independent administrator for the plan who will retain for two years the shares purchased by the employee and will retain out of the proceeds of any sale in that two-year period amounts to be repaid to the Treasurer with respect to grants previously paid to the employee.
4. An annual grant of the lesser of \$300 or 15 per cent of the cost of the shares purchased is available to eligible employees.
5. Full-time or part-time employees who are Ontario residents and who have worked for their employer for at least six months may apply for the grant after they purchase and fully pay for the newly-issued shares unless the employee already owns or the employee is related to any person who already owns 10 per cent or more of any class of shares in the employer corporation.
6. The purchase of the shares must result in new capital being paid to the employer corporation and no grant will be paid where an employee uses the proceeds from the sale of the previously-owned shares to purchase new shares.
7. An eligible corporation may apply for a grant equal to the lesser of \$10,000 and one-third of the prescribed expenditures incurred by the corporation in establishing an employee share ownership plan.
8. An employee group may apply for a grant equal to the lesser of \$5,000 and one-half of the prescribed expenditures incurred by the employees in negotiating, evaluating and implementing the employee share ownership plan.
9. Improperly paid grants may be recovered by the Minister through court action.
10. Administrative provisions relating to audits and requests for information, offences and the keeping of adequate records are similar to those contained in the *Corporations Tax Act*; provisions relating to revocations of employee share ownership plans, the filing of objections and applications to the Supreme Court are similar to those contained in the *Small Business Development Corporations Act*.

Bill 11**1987**

**An Act to provide an
Incentive to Ontario Employees of
Small and Medium Sized Corporations to Purchase
Newly Issued Shares of their Employer Corporation**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“administrator” means an administrator under an escrow agreement;

“associated corporations” means corporations that are associated corporations under section 256 of the *Income Tax Act* (Canada) or corporations that would be associated corporations under that section if the corporations had been incorporated in Canada; R.S.C. 1952,
c. 148

“eligible corporation” means a corporation to which a certificate of eligibility has been issued under section 7;

“eligible employee” means an eligible employee referred to in section 11;

“employee” means an individual who is employed by an eligible corporation on a continuing basis for at least fourteen hours per week;

“employee group” means those employees who have been certified under subsection 4 (4);

“employee share” means a share issued by an eligible corporation that includes the right,

- (a) to vote at all meetings of shareholders, and
- (b) to receive the remaining property of the corporation upon dissolution;

“employee share ownership plan” means an arrangement whereby eligible employees may acquire employee shares in an eligible corporation;

“employee share purchase agreement” means an agreement entered into by an eligible corporation and its employees for the purchase of employee shares by eligible employees containing the requirements set out in subsection 2 (1);

“escrow agreement” means an agreement entered into by an eligible corporation, an administrator and an eligible employee containing the provisions required under subsection 2 (2);

“Minister” means the Minister of Revenue;

“person” includes an employee, an employee group, a corporation and an administrator;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act;

“specified shareholder of the eligible corporation” means a person who is a specified shareholder of the corporation within the meaning of subsection 248 (1) of the *Income Tax Act* (Canada) for the purposes of that Act and any reference to a taxpayer in the definition under that Act shall be read as referring to an employee under this Act;

“taxation year”, in respect of a corporation, means a taxation year of the corporation for the purposes of the *Income Tax Act* (Canada), whether or not the corporation is subject to tax under that Act or is resident in Canada for the purposes of that Act.

R.S.C. 1952,
c. 148

Provisions of
employee
share
purchase
agreement

2.—(1) An employee share purchase agreement shall contain, in addition to any other terms and conditions that are prescribed or that are agreed to by the parties, the following provisions:

1. The employee shares to be purchased in accordance with the agreement shall be offered for purchase to all eligible employees.
2. A method of valuing such employee shares shall be described which shall apply to all common shares and employee shares issued by the eligible corporation.

3. A subscription price for the employee shares shall be specified and shall comply with the method of valuing the shares.
4. The terms and conditions for the purchase, sale, redemption and transfer, as applicable, of the employee shares shall be specified.
5. The employee shares shall be issued to, and be recorded on the share register in the name of, the eligible employee to be held in escrow by the administrator under the escrow agreement.
6. The eligible corporation shall provide to the eligible employees all financial information necessary to fully inform such employees in respect of the purchase, sale, transfer or redemption of employee shares.
7. The eligible corporation shall issue to the administrator an investment confirmation certificate in the prescribed form in respect of the purchase of employee shares.
8. The eligible corporation shall comply with all the provisions of the *Securities Act*, including all notice provisions applicable to the issuance, sale or transfer of shares.
9. The eligible corporation shall advise the eligible employees of the provisions of the *Securities Act* applying to the sale or transfer of shares and applying to insider trading.

R.S.O. 1980.
c. 466

(2) An escrow agreement shall contain, in addition to any other terms and conditions that are prescribed or that are agreed to by the parties, the following provisions:

Provisions of
escrow
agreement

1. All employee shares purchased by an eligible employee shall be held in escrow by the administrator for a period of two years from the date of purchase, or until sold, whichever is the earlier.
2. The administrator shall be a person who is independent of and is not subject to the direction of the eligible corporation or of any eligible employee.
3. The administrator shall deliver to the eligible employee the investment confirmation certificate

issued by the eligible corporation in respect of the employee shares.

4. The administrator shall maintain records of employee shares purchased, sold, transferred or redeemed, in a form acceptable to the Minister and provide to each eligible employee a report of his or her employee shares purchased, sold, transferred or redeemed.
5. All proceeds receivable by an eligible employee on the sale, transfer or redemption of the employee shares held in escrow shall be paid to the administrator.
6. The administrator shall withhold from proceeds received on a sale, transfer or redemption of employee shares paid under paragraph 5 an amount equal to lesser of the grant paid under section 12 and the amount determined by prescribed formula, and shall remit such amount to the Treasurer of Ontario.
7. The administrator shall file an annual return with the Minister in the manner, at the time and in the form prescribed.

Eligibility to
register
employee
share
ownership
plan

3.—(1) No corporation is eligible to register an employee share ownership plan under this Act unless,

- (a) the corporation is incorporated in Canada;
- (b) the aggregate of all wages and salaries paid in the last taxation year of the corporation that ends before the date of application under subsection 5 (1) to employees of permanent establishments of the corporation in Ontario for the purposes of the *Corporations Tax Act* is not less than 25 per cent of all wages and salaries paid in the year by the corporation;
- (c) either its gross revenue, together with the gross revenue of all associated corporations, or its total assets, together with the total assets of all associated corporations, in the last taxation year ending prior to the date of application under subsection 5 (1) does not exceed \$50,000,000 or such other amount as is prescribed.

(2) Subject to subsections (3) and (4), for the purposes of subsection (1) and section 10,

Calculation
of gross
revenue and
total assets

(a) the gross revenue of a corporation in a taxation year is the amount equal to the product of,

(i) the gross revenue of the corporation as disclosed in the financial statements of the corporation for that taxation year prepared in accordance with generally accepted accounting principles, and

(ii) the ratio of 365 to the number of days in the taxation year; and

(b) the total assets of a corporation in a taxation year is the amount equal to the sum of,

(i) the total assets as disclosed in the financial statements of the corporation for that taxation year prepared in accordance with generally accepted accounting principles, and

(ii) the amount by which the value of any asset of the corporation has been written down and deducted from its income or undivided profits where such amount is not deductible in the calculation of its taxable income for the current and all prior taxation years under Part I of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

(3) For the purposes of this section and section 10,

Idem,
associated
corporations

(a) if a corporation is a member of a group of associated corporations during its last taxation year ending before the date of application under subsection 5 (1), the gross revenue of the corporation for the taxation year is the amount by which,

(i) the sum of,

(A) the gross revenue of the corporation determined under clause (2) (a), and

(B) the aggregate of all amounts, each of which is the gross revenue of an associated corporation for its taxation year that ends in the last taxation year of the corporation determined under clause (2) (a),

exceeds,

- (ii) the aggregate of any amounts included in the gross revenue of the corporation or an associated corporation attributable to transactions between the corporations; and
- (b) if a corporation is a member of a group of associated corporations during its last taxation year ending before the date of application under subsection 5 (1), the total assets of the corporation for the taxation year is the amount by which,

- (i) the sum of,

- (A) the total assets of the corporation determined under clause (2) (b), and
- (B) the aggregate of all amounts, each of which is the amount of the total assets of an associated corporation for its taxation year that ends in the last taxation year of the corporation determined under clause (2) (b),

exceeds,

- (ii) the aggregate of,

- (A) the amounts, if any, included in the total assets of the corporation under subclause (i), representing debts owed at the end of the taxation year to the corporation by an associated corporation and to an associated corporation by the corporation, and
- (B) the cost to the corporation of any shares of an associated corporation beneficially owned by the corporation at the end of the taxation year and the cost to an associated corporation of any shares of the corporation beneficially owned by the associated corporation at the end of its taxation year.

Idem.
corporations
in
partnership

(4) For the purposes of this section and section 10, a corporation that is a member of a partnership shall include in its gross revenue and in its total assets for a taxation year the percentage of gross revenue and the percentage of the total

assets as disclosed in the financial statements of the partnership for the fiscal period ending in that taxation year prepared in accordance with generally accepted accounting principles that represents the corporation's participation in the profits of the partnership during the fiscal period of the partnership.

4.—(1) Where a corporation intends to deliver an application to register an employee share ownership plan, the corporation shall forward to the Minister, in the prescribed manner, copies of the proposed employee share purchase agreement, the proposed escrow agreement and any other material prescribed to be submitted for review by the Minister.

Where corporation proposes to apply to register plan

(2) The Minister shall forthwith review the proposed agreements and other materials submitted under subsection (1) and advise the corporation whether the agreements and other materials comply with this Act.

Review by Minister

(3) Where employees of the corporation referred to in subsection (1) wish to retain the services of one or more persons to assist the employees in the negotiation, evaluation and implementation of an employee share ownership plan, the employees may make an application in the prescribed form to be certified as an employee group under this Act.

Application for certification as employee group

(4) The Minister shall consider the application made under subsection (3) and may certify those employees as an employee group for the purposes of section 14.

Certification by Minister

(5) Where the Minister has certified employees as an employee group under subsection (4), no further applications may be made under subsection (3).

One employee group only

5.—(1) A corporation may apply to have an employee share ownership plan registered under this Act by delivering to the Minister an application in the prescribed form.

Application for registration of plan

(2) The application shall be accompanied by,

Material to accompany application

- (a) the corporation's financial statements for its last taxation year ending prior to the date of application under subsection (1);
- (b) a certified copy of the corporation's articles of incorporation and any amendments thereto; and
- (c) a true copy of the employee share purchase agreement, the escrow agreement and any other material prescribed to be submitted with the application.

Disentitle-
ment to
registration
of plan

6. A corporation is not entitled to have its employee share ownership plan registered under subsection 7 (1) if,

- (a) the employee share purchase agreement does not comply with subsection 2 (1);
- (b) the escrow agreement does not comply with subsection 2 (2);
- (c) the corporation fails to comply with section 3 or 5; or
- (d) the corporation fails to file any material required by this Act or the regulations.

Registration
of plan and
certificate
eligibility

7.—(1) Where a corporation satisfies the requirements of this Act, the Minister shall register the corporation's employee share ownership plan and issue a certificate of eligibility in the form prescribed by the Minister.

Register
open to
public
inspection

(2) The Minister shall maintain a register of those eligible corporations who have registered an employee share ownership plan under this Act and the register shall be open for public inspection during normal business hours.

Amendments

8.—(1) Where an eligible corporation proposes to amend its employee share purchase agreement or its escrow agreement or any other prescribed material, it shall forthwith advise the Minister.

Approval,
variation or
rejection by
Minister

(2) Upon receipt of any proposal under subsection (1), the Minister shall forthwith consider such proposal and may approve, vary or reject the proposal, subject to section 17.

Returns

9.—(1) Within 180 days after the end of each taxation year ending after the date of registration under subsection 7 (1), every eligible corporation shall prepare and file with the Minister a return in the prescribed form setting out the information required in such return.

Extension of
time

(2) The Minister may, in his or her discretion, enlarge the time for filing the return required under this section.

Revocation
of
registration
or refusal to
pay grant

10. Subject to section 17, the Minister may revoke the registration of the employee share ownership plan of an eligible corporation or refuse to pay a grant under section 12 where,

- (a) the gross revenue of the eligible corporation, together with the gross revenue of all associated

corporations calculated in accordance with section 3, exceeds \$75,000,000, or such other amount as is prescribed, in a taxation year, and the total assets, together with the total assets of all associated corporations calculated in accordance with section 3, also exceed \$75,000,000, or such other amount as is prescribed, in the same taxation year;

- (b) the eligible corporation ceases to comply with clause 3 (1) (b);
- (c) the eligible corporation, its officers or directors or its shareholders have failed to comply with any provisions of this Act or the regulations or are conducting their business and affairs in a manner that is contrary to the spirit and intent of this Act or for the purpose of obtaining a grant under this Act to which they would not otherwise be entitled;
- (d) the eligible corporation proceeds with any amendments not approved by the Minister under subsection 8 (2); or
- (e) the eligible corporation requests deregistration of its employee share ownership plan.

11.—(1) Where an employee is an eligible employee under subsection (2) and complies with the provisions of this Act, the Minister may make a grant under section 12 to the eligible employee upon application therefor.

Grant to
eligible
employee

(2) An employee shall be an eligible employee if,

Where
employee is
eligible
employee

- (a) the employee was resident in Ontario on the last day of the previous calendar year and on the date the eligible corporation issues employee shares to the employee; and
- (b) the employee has been employed by the eligible corporation during the six months prior to the issue of employee shares to him or her under clause (3) (b).

(3) No grant shall be paid unless,

Condition of
payment of
grant

- (a) the eligible employee has applied to the eligible corporation to purchase employee shares of the eligible corporation in accordance with the employee share purchase agreement;

- (b) the eligible corporation has issued such employee shares in the name of the eligible employee and the shares are held in escrow by the administrator;
- (c) the eligible employee has fully paid for the employee shares; and
- (d) the employee shares are newly issued by the eligible corporation.

Idem

(4) No grant shall be paid where,

- (a) the purchaser of any employee shares is a specified shareholder of the eligible corporation;
- (b) the purchase of any employee share entitles the holder thereof to claim a credit against or deduction from income or income tax under the *Income Tax Act* (Canada); or
- (c) the purchase of any employee share entitles the holder thereof to apply for a grant under the *Small Business Development Corporations Act*.

R.S.C. 1952,
c. 148

R.S.O. 1980,
c. 475

Grants to
eligible
employees

12.—(1) An eligible employee may make an application in the prescribed form for a grant and, subject to section 11 and this section, the Minister may pay a grant equal to the lesser of,

- (a) \$300; and
- (b) 15 per cent of the cost to the eligible employee of employee shares purchased by the eligible employee from the eligible corporation in the calendar year.

Time of
application

(2) No grant shall be paid under subsection (1) unless application therefor is received by the Minister within three years of the date of issue of the employee shares.

Material to
accompany
application

(3) An application under subsection (1) shall be accompanied by,

- (a) an investment confirmation certificate in the prescribed form signed by the secretary and one other authorized signing officer of the eligible corporation that issued the employee shares in respect of which an application for a grant is being made; and
- (b) any additional prescribed material.

(4) Where an applicant for a grant under subsection (1) has previously held and disposed of,

Calculation of cost where shares previously held disposed of, etc.

- (a) common shares of the eligible corporation within six months prior to the purchase of the employee shares from the eligible corporation; or
- (b) employee shares of the eligible corporation with respect to which a grant was paid under this Act which has not been repaid under subsection 15 (1),

the cost to the applicant of the employee shares for the purposes of clause (1) (b) shall be deemed to be the amount by which the cost of the employee shares determined without reference to this subsection exceeds the aggregate of the net proceeds of disposition received or receivable by the applicant on the disposition of all shares referred to in clause (a) or (b).

13.—(1) An eligible corporation may make an application to the Minister for a grant and the Minister may pay to the corporation a grant equal to the lesser of,

Grants to eligible corporations

- (a) \$10,000; and
- (b) one-third of the outlays and expenses as prescribed incurred by the eligible corporation to establish an employee share ownership plan.

(2) No grant shall be paid under subsection (1) unless application therefor is made within one year of the date of issue to the corporation of the certificate of eligibility under subsection 7 (1).

Time of application

(3) Where the Minister has made a grant under subsection (1), no further applications may be made by the eligible corporation under this section.

One grant only

14.—(1) An employee group may make an application to the Minister for a grant and the Minister may pay to the employee group a grant equal to the lesser of,

Grants to employee groups

- (a) \$5,000; and
- (b) one-half of the outlays and expenses as prescribed incurred in advising employees in the negotiation, evaluation and implementation of an employee share ownership plan.

(2) No grant shall be paid under subsection (1) unless application therefor is made within one year of the date of issuance

Time of application

of the certificate of eligibility to the eligible corporation under subsection 7 (1).

One grant only

(3) Where the Minister has made a grant under subsection (1), no further applications may be made by the employee group under this section.

Repayment of grant when shares disposed of

15.—(1) Subject to section 17 and other than in the case of an involuntary disposition prescribed, an eligible employee who disposes of employee shares in respect of which a grant was paid under section 12 within two years from the date of purchase of the employee shares shall repay to the Minister the lesser of,

(a) an amount equal to the grant paid in respect of those employee shares to such eligible employee; and

(b) the amount determined by the prescribed formula.

Amounts paid to Treasurer

(2) All amounts payable to the Minister under subsection (1) shall be retained by the administrator from the proceeds of sale of the employee shares and shall be remitted to the Treasurer of Ontario at the time and in the manner prescribed.

Repayment of grants to which not entitled

16.—(1) Subject to section 17, where a person receives or obtains a grant under this Act to which that person was not entitled or receives or obtains the payment of any amount in excess of the amount of grant to which that person was entitled, the amount of the grant or excess payment, as the case may be, shall be deemed to be a debt due to the Crown and shall be paid forthwith by the person to the Minister.

Demand for repayment

(2) Where the Minister determines that any amount is repayable under subsection (1), the Minister shall, when requesting repayment thereof, serve on the person a demand for repayment together with the reasons therefor.

Recovery

(3) Where a person liable to make a payment under subsection (1) fails to make the payment to the Minister, the amount of the debt may be recovered in any court of competent jurisdiction in proceedings commenced by the Minister at any time.

Acceptance of lesser amount

(4) Notwithstanding subsection (1), if owing to special circumstances it is deemed inequitable to demand the whole amount due under this section, the Minister may accept such lesser amount as he or she considers proper.

Notice of proposal by Minister

17.—(1) Where the Minister proposes,

- (a) to refuse to certify an employee group under subsection 4 (4);
- (b) to refuse to register an employee share ownership plan under subsection 7 (1);
- (c) to vary or reject an amendment under subsection 8 (2);
- (d) to revoke registration under section 10;
- (e) to refuse to make a grant under subsection 12 (1), 13 (1) or 14 (1); or
- (f) to require repayment under subsection 15 (1),

the Minister shall serve notice of the proposal, together with written reasons therefor, on the applicant, registrant, corporation, employee group, eligible employee or other person, as the case may be.

(2) If the Minister fails to register the employee share ownership plan of a corporation under section 7 within six months of application therefor under subsection 5 (1), the Minister shall be deemed to have refused to register the employee share ownership plan for the purposes of clause (1) (b).

Deemed
refusal of
registration

(3) Where a person objects to a proposal under subsection (1) or a demand for repayment under subsection 16 (2) that is served on that person, the person may, within sixty days from the day of mailing of the proposal or demand or from the date upon which the Minister has been deemed to have refused registration under subsection (2), serve on the Minister a notice of objection in the prescribed form setting out the reason for the objection and all relevant facts.

Notice of
objection

(4) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister, but the Minister may accept a notice of objection that was not served in the manner required.

Service of
notice

(5) Where no notice is served under subsection (4), the Minister may proceed to carry out the proposal under subsection (1) or recover the debt stated in the demand under subsection 16 (2).

Where no
notice served

(6) Upon receipt of the notice of objection, the Minister shall forthwith reconsider the proposal or demand and may confirm, vary or abandon such proposal or demand, and the

Recon-
sideration by
Minister

Minister shall thereupon notify the person making the objection of such action by registered mail.

Where no
appeal

(7) A decision of the Minister under subsection (6) is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law.

Surrender of
certificate of
eligibility

(8) Where no notice was served under subsection (4) or where the Minister's proposal was confirmed under subsection (6), subject to section 18, the eligible corporation shall surrender the certificate of eligibility issued to it under subsection 7 (1).

Application
to judge
where facts
undisputed

18. In any dispute over a decision or action of the Minister under subsection 17 (6), the Minister may, where the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to a judge of the Supreme Court to have the issue in dispute determined and, if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

Communi-
cation of
information

19.—(1) Except as provided in subsection (2), no person employed in the Government of Ontario shall,

- (a) knowingly communicate or allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) knowingly allow any person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

Exception

(2) Notwithstanding anything in this Act, the Minister may permit information or a copy of any book, record, writing, return or other document obtained by the Minister or on his or her behalf for the purposes of this Act to be given to,

- (a) any official or authorized person employed by the Government of Ontario in the administration and enforcement of this Act;

- (b) the Minister of National Revenue of the Government of Canada or any official or employee employed under that Minister;
- (c) the Treasurer of Ontario and the Minister of Industry, Trade and Technology of the Government of Ontario and any official or employee employed under the Treasurer or Minister; or
- (d) the Ontario Securities Commission or any official employed by the Commission.

20.—(1) Every eligible corporation, administrator and employee group under this Act shall keep such records as may be prescribed by the Minister at its permanent establishment in Ontario, as defined in the *Corporations Tax Act*, or place of business in Ontario, as the case may be, or at such other place of business as is designated by the Minister, in the form and containing such information as will enable the Minister to determine that this Act and the regulations have been complied with.

Records

R.S.O. 1980,
c. 97

(2) Where an eligible corporation, administrator or employee group has failed to keep adequate records for the purposes of this Act, the Minister may require the eligible corporation, administrator or employee group to keep such records as may be so required.

Idem

(3) Every eligible corporation, administrator or employee group required by this section to keep records shall, until permission for their disposal is given by the Minister, retain every such record and every account or voucher necessary to verify the information in any such record.

Retention of
records

21.—(1) Any person thereunto authorized by the Minister for any purpose relating to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or records are or should be kept pursuant to this Act, and,

Investigations

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or to the amount of any grant paid or payable under this Act;
- (b) examine any property, process or matter an examination of which may, in his or her opinion, assist

such person in determining the accuracy of any application required by this Act or in ascertaining the information that is or should be in the books and records or in such application, or the amount of any grant paid or payable under this Act; and

- (c) require any person on the premises to give him or her all reasonable assistance with the audit or examination and to answer all questions relating to the audit or examination either orally or, if so required, in writing, on oath or statutory declaration and, for that purpose, require such person to attend at the premises or place with him or her.

Information

(2) The Minister may, for any purpose relating to the administration and enforcement of this Act, by registered letter or by a demand served personally, require from any eligible corporation or from the president, manager, secretary or any director, agent or representative thereof, or from any other person,

- (a) any information or additional information or a return under section 9 or other return required by the regulations; or
- (b) production, or production on oath, of books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may, by registered letter or a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by any agent or officer thereof, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation, or of any agent or officer thereof, for the purpose of determining eligibility or possible eligibility for a grant under this Act, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

Copies

(4) Where a book, record or other document has been examined or produced under this section, the person by whom it is examined or to whom it is produced or any officer of the Ministry of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or by a person thereunto authorized by the Minister to be a copy made pursuant to this section is admis-

sible in evidence and has the same probative force as the original document would have had had it been proven in the ordinary way.

(5) No person shall hinder, molest or interfere with any person doing anything that he or she is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he or she is unable to do so, do everything he or she is required by this section to do. Compliance

(6) Any officer or employee of the Ministry of Revenue who is authorized by the Minister may administer oaths and take or receive affidavits, declarations and affirmations for the purpose of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits. Administration of oaths

22.—(1) Every person who fails to deliver a return or report as and when required by this Act or the regulations is guilty of an offence and, in addition to any other penalty otherwise provided, on conviction is liable to a fine of not less than \$50 for each day during which the default continues. Offences

(2) Every person who fails to comply with or contravenes section 20 or 21 is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of \$50 for each day during which the default continues. Idem

23. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. Officers, etc., of corporations

24.—(1) Every person who, Offences

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or the regulations;
- (b) knowingly failed to disclose any information that is required to be disclosed and by reason thereof obtained the payment of a grant under this Act to which he or she was not entitled or to which the

person on whose behalf he or she was acting was not entitled;

- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records required to be maintained under this Act;
- (d) knowingly converted to his or her own use a payment of a grant under this Act to which he or she was not entitled; or
- (e) conspires with any person to commit an offence described in clauses (a) to (d),

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000.

Exception

(2) No person is guilty of an offence under subsection (1) if he or she did not know that the statement was false or misleading and in the exercise of due diligence could not have known that the statement was false or misleading.

Limitation

25. Proceedings in respect of an offence against this Act may be commenced not later than six years after the time the subject matter of the proceedings arose.

Regulations:
by
Lieutenant
Governor in
Council

26.—(1) The Lieutenant Governor in Council may make regulations,

- (a) authorizing or requiring the Deputy Minister or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act or the regulations;
- (b) prescribing additional terms and conditions to be included in an employee share purchase agreement and an escrow agreement;
- (c) prescribing any amount that is greater or lesser than the amount set out in clause 3 (1) (c) or 10 (a);
- (d) providing for the forwarding of draft agreements and other materials to the Minister under subsection 4 (1);

- (e) prescribing additional material to be included in an application under sections 5 and 12;
- (f) providing for the annual filing of a return by an administrator;
- (g) prescribing the outlays and expenses referred to in clauses 13 (1) (b) and 14 (1) (b);
- (h) prescribing the circumstances or situations of involuntary dispositions in which an eligible employee will not be required to repay a grant made under section 12 for the purposes of subsection 15 (1);
- (i) prescribing the time and manner of the remitting of amounts withheld by an administrator under subsection 15 (2);
- (j) prescribing the formula to be used in determining the amount of any repayment under clause 15 (1) (b), in lieu of the amount of the repayment referred to in clause 15 (1) (a);
- (k) defining any word or expression in this Act or the regulations that has not already been expressly defined herein;
- (l) providing for the payment of interest on any amount repayable under subsection 15 (1).

(2) The Minister may make regulations,

by Minister

- (a) prescribing any form, return or statement to be made under this Act or the regulations or that, in the Minister's opinion, will assist in the administration of this Act, and prescribing how and by whom any form, return or statement shall be completed and what information it shall contain;
- (b) prescribing, defining or determining anything the Minister is permitted or required by this Act to prescribe, define or determine;
- (c) prescribing for the purposes of this Act and the regulations the records to be maintained by an eligible corporation, an administrator or an eligible group.

(3) A regulation is, if it so provides, effective with reference to a period before it was filed.

may be
retroactive

Commence-
ment

27. This Act shall be deemed to have come into force on the 1st day of January, 1987.

Short title

28. The short title of this Act is the *Employee Share Ownership Plan Act, 1987*.

Bill 12

An Act to amend the Municipal Act and the Education Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading April 30th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to permit a county municipality to apply to the Minister of Revenue to institute a uniform assessment update of all real property throughout the county on the same market value basis. The Minister of Revenue shall not direct a uniform county-wide assessment update unless the council of the county and the councils of a majority of the local municipalities within the county are in agreement with the request to implement a uniform assessment update.

The Bill will also alter the system of sharing school board and county requirements among the supporting local municipalities. The county and each school board operating within the county will be required to establish one uniform residential and farm mill rate and one uniform commercial mill rate. In order to accomplish this purpose, it is necessary to introduce complementary amendments to the *Education Act*.

The Bill will also require that the Ministry of Revenue conduct an update of the uniform assessment base at least every four years to reflect subsequent changes in market values.

Bill 12

1987

**An Act to amend the
Municipal Act and the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 365 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 45, section 18, is further amended by adding thereto the following subsection:

(20) This section and sections 366 and 368 do not apply in a county where an assessment update has been carried out under subsection 368b (2).

Where
assessment
update
carried out

2. The said Act is amended by adding thereto the following sections:

368a. In sections 368b to 368l,

Definitions

“commercial assessment” means the total, according to the last returned assessment roll, of,

- (a) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal or regional corporation or local board thereof,
- (b) business assessment, and
- (c) the assessment for mineral lands, pipe lines and railway lands, other than railway lands actually in use for residential and farming purposes;

“lower tier municipality” means a town, village or township in a county, but excludes a separated town or separated township;

R.S.O. 1980,
c. 129

“public school board” means a public board as defined in paragraph 42a of subsection 1 (1) of the *Education Act*;

“residential and farm assessment” means the total assessment for real property according to the last returned assessment roll except the assessments for real property mentioned in clauses (a) and (c) of the definition of “commercial assessment”;

“separate school board” means a separate school board as defined in paragraph 59a of subsection 1 (1) of the *Education Act*;

“weighted assessment” means for the relevant area the total of,

- (a) the product obtained by multiplying the residential and farm assessment by 85 per cent, and
- (b) the commercial assessment.

Interpretation

368b.—(1) For the purposes of this section and sections 368c, 368d, 368f and 368g, “county” includes any cities, separated towns and separated townships situate in the county.

County-wide
assessment
update

(2) If the Minister of Revenue considers that, within any class or classes of real property within a county, any parcel or parcels of real property are assessed inequitably with respect to the assessment of any other parcel or parcels of real property of that class, the Minister of Revenue may direct that such changes be made in the assessment to be contained in the assessment roll next to be returned for each local municipality as will, in the Minister’s opinion, eliminate or reduce inequalities in the assessment of any class or classes of real property, and the Minister of Revenue may, for that purpose, make regulations,

- (a) prescribing the classes of real property into which all the real property in the county shall be divided for the purpose of this subsection;
- (b) prescribing standards and procedures to be used for the purpose of equalizing and making equitable the assessments of all real property belonging to the same class throughout the county;

- (c) providing that any equalization of assessment pursuant to a regulation made under clause (b) shall not alter, as between classes of real property throughout the county, the relative level of assessment at market value previously existing among such classes, or providing that the equalization shall alter such levels of assessment at market value no more than is reasonably necessary to provide equitability of assessment within each class.

(3) The Minister of Revenue shall not make a direction under subsection (2) unless, Resolution required

- (a) the council of the county; and
- (b) the councils of a majority of the local municipalities in the county,

have requested by resolution that a direction be made but a resolution is not required where a direction of the Minister of Revenue is made as required under subsection (7).

(4) If the assessment roll of a local municipality for taxation in any year is changed pursuant to a direction of the Minister of Revenue under subsection (2), Application of new assessment roll

- (a) the assessment roll to be returned for that local municipality for taxation in that year shall be the assessment roll as so changed and not the assessment roll that would otherwise have been returned; and
- (b) the assessment roll to be returned in each year following that year shall be the assessment roll returned under clause (a) as amended, added to, or otherwise altered under the *Assessment Act* up to the date when the assessment roll is returned in each such following year.

R.S.O. 1980,
c. 31

(5) Notwithstanding subsection (4), where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property. Exception

(6) For the purpose of every Act, the assessment roll of a local municipality returned under subsection (4) shall be Status of assessment roll

deemed to be the assessment roll of the local municipality returned under the *Assessment Act*.

Mandatory
return of
updated roll
every fourth
year

(7) In every fourth year following the most recent direction under subsection (2), the Minister of Revenue shall make a direction under subsection (2) for changes to be made to the assessment roll of each local municipality.

Provisions
of
R.S.O. 1980,
c. 31

(8) Except as provided in subsections (2) and (7), the *Assessment Act* and the alterations, corrections, additions and amendments authorized by that Act apply to an assessment roll returned under subsection (4).

Idem

(9) Where a direction has been made under subsection (2) in respect of the assessment roll of a local municipality for purposes of taxation in any year, subsections 63 (1) and (3) and sections 64 and 65 of the *Assessment Act* do not apply to that municipality or to the assessment roll of that local municipality in respect of that year and all subsequent years.

Powers on
appeal

(10) The Assessment Review Board, the Ontario Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Ontario Municipal Board or court is satisfied that the assessment is inequitable with respect to the assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property.

Where
property
described in
class
prescribed
under
subs. (2)

(11) Notwithstanding that a complaint, appeal, proceeding or action concerns an assessment made for taxation in a year prior to the year for which classes of real property were prescribed for the county under subsection (2), for the purpose of determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, real property described in a class prescribed under subsection (2) for the county is not similar to real property described in another class prescribed under subsection (2) for the county, and the inclusion of real property within a class so prescribed does not indicate that the real property is similar to other real property in that class.

No
amendment
to collector's
roll

(12) No amendment shall be made to the assessment or a collector's roll under clause 33 (a) of the *Assessment Act* until the cumulative value of the increase since the date of the most

recent change to the assessment roll under a direction of the Minister of Revenue under subsection (2) is at least in the sum of \$5,000 at market value or, if the assessment in the county is at less than market value, at an equivalent rate.

(13) For purposes of subsection 24 (16a) of the *Assessment Act*, changes made in the assessment roll of a local municipality under a direction of the Minister of Revenue under subsection (2) shall be deemed to be an assessment update of all property within that local municipality under subsection 63 (3) of the *Assessment Act*.

Table of
rates for pipe
lines
R.S.O. 1980,
c. 31

(14) Nothing in section 368d, 368e or 368f in any way deprives any person of any right of appeal provided for in the *Assessment Act* or affects the operation of subsection 36 (6) of that Act.

Rights of
appeal
preserved

(15) A regulation made under subsection (2) may be made retroactive to the 1st day of December of the year preceding the year in which it was made.

Regulations
may be
retroactive

368c.—(1) Sections 368d to 368l apply only if a different assessment of lands in each local municipality in the county has been instituted pursuant to a direction of the Minister of Revenue under subsection 368b (2).

Different
assessment
generally
throughout
the county

(2) Notwithstanding subsection 164 (2) of this Act or subsection 216 (2) of the *Education Act*, where the amount levied by a local municipality for county purposes or school purposes in the year prior to the year for which a change in assessment is made pursuant to a direction of the Minister of Revenue under subsection 368b (2), differs from the sum the local municipality ought to have levied for county purposes or school purposes, the local municipality shall debit or credit such deficit or surplus, as applicable, to the general funds of the municipality and not revise the rates to be levied for such body in the next succeeding year.

Adjustment
of levies
R.S.O. 1980,
c. 129

368d.—(1) In each year, each public school board and separate school board having jurisdiction in part or all of the county shall determine the rates to be levied by the applicable local municipalities in the county to provide the sums required for elementary and secondary school purposes, as the case may be, in that year and shall specify the amount that is to be provided in that year by the application of those rates within each such local municipality in the county.

Determina-
tion of
school rates

(2) The determinations required by subsection (1) shall be made in accordance with subsection 222 (1) of the *Education Act*.

Idem

Direction to
local municipi-
pality

(3) On or before the 1st day of March in each year, the school boards mentioned in subsection (1) shall direct the council of each applicable local municipality in the county to levy the rates determined by the board under subsection (1) and shall advise the local municipality of the amounts of money to be raised by levying those rates in the local municipality.

Local municipi-
pality to levy
and collect

(4) In each year, the council of a local municipality shall levy rates in accordance with the directions under subsection (3) upon all property in the local municipality rateable for public school board or separate school board purposes, as may be appropriate.

Full value to
be used

(5) The full value of all applicable rateable property shall be used in determining,

(a) the weighted assessment for each local municipality for purposes of apportioning among the applicable local municipalities within the county the sums required for school purposes by each public school board and separate school board;

(b) the rates mentioned in subsection (1); and

(c) the assessment upon which the rates are to be levied under sections 128, 133 and 215 of the *Education Act*,

R.S.O. 1980,
c. 129

and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

R.S.O. 1980,
c. 31

Definitions in
R.S.O. 1980,
c. 129, s. 220

(6) For the purposes of determining and levying rates under this section, a reference in the *Education Act* to “commercial assessment” or “residential and farm assessment” shall be deemed to be a reference to such assessments as defined in section 368a of this Act and not as defined in section 220 of that Act.

Non-
application
of
R.S.O. 1980,
c. 129,
s. 219 (2)

(7) Subsection 219 (2) of the *Education Act* does not apply to the determination of rates under subsection (1).

Application
of
R.S.O. 1980,
c. 129

(8) Except as provided in this section, the *Education Act* continues to apply to the levying of rates and collecting of taxes for each public school board and separate school board having jurisdiction in all or part of the county.

Definitions

368e.—(1) In this section,

“general county levy” means the amount required to be raised in any year for general county purposes including the sums required for any board, commission or other body, but excluding those amounts required for school purposes;

“special county levy” means an amount required to be raised by two or more lower tier municipalities in any year for county road or county library purposes where such amount was not included in the determination of the general county levy.

(2) For purposes of raising the general county levy, the council of the county shall, in each year, on or before the 31st day of March, by by-law direct the council of each lower tier municipality in the county to levy a separate rate, as specified in the by-law, on the residential and farm assessment in the lower tier municipality rateable for county purposes and on the commercial assessment in the lower tier municipality rateable for county purposes.

General
county rating
by-law

(3) For purposes of raising a special county levy, the council of the county shall, in each year, on or before the 31st day of March, by by-law direct the council of each applicable lower tier municipality, to levy a separate rate, as specified in the by-law, on the residential and farm assessment in the lower tier municipality rateable for county purposes and on the commercial assessment in the lower tier municipality rateable for county purposes.

Special
county rating
by-law

(4) The rate to be levied in each year, on commercial assessment for each separate levy specified in subsections (2) and (3), shall be determined by multiplying the sum required for each such levy by 1,000 and dividing the product,

Determi-
nation of
commercial
rates

(a) by the weighted assessment for all lower tier municipalities in the county, in the case of the general county levy; and

(b) by the weighted assessment of those lower tier municipalities that is rateable for the purpose of raising the special county levy, in the case of a special county levy.

(5) The rate that the council of the county shall direct to be levied on the residential and farm assessment under subsections (2) and (3) shall be 85 per cent of the rate to be levied on commercial assessment in accordance with subsection (4).

Determi-
nation of
residential
rate

(6) In each year, the council of each lower tier municipality in the county shall levy, in accordance with the rating by-laws

Lower tier
municipality
to adopt
rates

passed by the county for that year, the rates specified in the by-law.

Tax exempt
real property

(7) The assessment for real property that is exempt from taxation for county purposes by virtue of any Act or by virtue of a by-law passed by the council of a lower tier municipality under any Act shall not be included when determining weighted assessment for the purposes of subsection (4).

Full value to
be used

(8) The full value of all rateable property shall be used in determining,

- (a) rates under subsections (4) and (5); and
- (b) the assessment on which a levy shall be made under subsection (6),

R.S.O. 1980,
c. 31

and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

Instalment
payments

(9) A by-law passed under subsection (2) or (3) shall specify the amount to be raised in a lower tier municipality as a result of a levy being made in that lower tier municipality in accordance with the by-law and the by-law shall provide that the amount to be raised by each lower tier municipality shall be paid to the county in the following instalments:

1. 25 per cent of the amount required for county purposes in the prior year, on or before the 31st day of March,
2. 50 per cent of the amount required for county purposes in the current year, less the amount of the instalment paid under paragraph 1, on or before the 30th day of June,
3. 25 per cent of such current amount, on or before the 30th day of September,
4. the balance of the entitlement for the year, on or before the 15th day of December,

and the by-law may provide that the county shall pay interest at a rate to be determined by the council of the county on any payment required, or portion thereof, made in advance by any lower tier municipality.

Idem

(10) Notwithstanding subsection (9), the council of a county may, by agreement with a majority of the lower tier municipalities in the counties representing at least two-thirds

of the weighted assessment of all the lower tier municipalities in the county, provide by by-law for any number of instalments and due dates thereof other than those provided in subsection (9) and those alternative instalments and due dates shall be applicable to all the lower tier municipalities in the county.

(11) The amount specified to be raised in a lower tier municipality pursuant to a rating by-law under subsection (2) or (3) shall be deemed to be taxes and is a debt of the lower tier municipality to the county and the treasurer of the lower tier municipality shall pay the amount owing by the lower tier municipality to the treasurer of the county on or before the dates and in the portions specified in the rating by-law.

Payment

(12) If a lower tier municipality fails to make any payment, or portion thereof, as provided in a rating by-law passed under subsection (2) or (3), the lower tier municipality shall pay to the county interest on the amount in default at the rate of 15 per cent per annum, or such lower rate as the council of the county may by by-law determine, from the date payment is due until it is made.

Default

(13) The Minister by order may extend the time for passing a rating by-law in any year and such an order may be made notwithstanding that the time limits set out in subsection (2) or (3) have expired.

Extension of time

(14) Notwithstanding subsections (4) and (5), the Lieutenant Governor in Council may, in a regulation made under section 9a of the *Ontario Unconditional Grants Act*, prescribe an alternative basis on which apportionments are to be made and may prescribe the manner of determining the mill rates to be specified and determined under subsections (2) and (3).

Alternative basis of apportionment
R.S.O. 1980, c. 359

(15) A basis of apportionment prescribed by the Lieutenant Governor in Council under subsection (14) shall be deemed to have been prescribed under subsection 9a (1) of the *Ontario Unconditional Grants Act* as an alternative to the basis of apportionment that would have been prescribed for the county under subsection 9a (1) if the county had not been subject to an assessment update under subsection 368b (2).

Deeming provision

368f.—(1) In this section,

Definitions

“local municipality levy” means the amount required for local municipality purposes under section 164 including the sums required for any board, commission or other body, but excluding those amounts required to be raised for county and school purposes;

“special local municipality levy” means an amount to be raised by a local municipality that is not included in the local municipality levy, but excluding those amounts required to be raised for county and school purposes.

Local municipality levies

(2) The council of each local municipality in a county shall, in each year in accordance with subsections (3) and (4), levy separate rates on the whole of the rateable commercial assessment and on the whole of the rateable residential and farm assessment in respect of the local municipality levy and the special local municipality levy.

Determination of commercial mill rates

(3) The rates to be levied in each year, on commercial assessment for each separate levy specified in subsection (2), shall be determined by multiplying the sum required for each levy by 1,000 and dividing the product,

(a) by the weighted assessment for the local municipality, in the case of a local municipality levy; and

(b) by the weighted assessment that is rateable for the purpose of raising the special local municipality levy, in the case of a special local municipality levy.

Determination of residential mill rates

(4) The rates to be levied in each year, on residential and farm assessment for each separate levy specified in subsection (2), shall be 85 per cent of the rate to be levied on commercial assessment in accordance with subsection (3).

Non-application of R.S.O. 1980, c. 359, s. 7

(5) Section 158 of this Act and section 7 of the *Ontario Unconditional Grants Act* do not apply to a local municipality to which this section applies.

Local municipality levy

(6) A reference in any other section of this Act or in any other Act to a levy by a local municipality under section 158 of this Act or section 7 of the *Ontario Unconditional Grants Act* shall, with respect to a local municipality to which this section applies, be deemed to be a reference to a levy under this section or under section 368e, as the case may be.

Tax exempt real property

(7) The assessment for real property that is exempt from taxation for local municipality purposes by virtue of any Act or by virtue of a by-law passed by the council of a local municipality under any Act shall not be included when determining the weighted assessment for purposes of clause (3) (a) or (b).

Interim financing, local municipalities

368g.—(1) The council of a local municipality in a county may for any year, before the adoption of the estimates for the year, levy such rates as it may determine on the rateable com-

mercial assessment and on the rateable residential and farm assessment in the local municipality.

(2) A by-law for levying rates under subsection (1) shall be passed in the year that the rates are to be levied or may be passed in December of the preceding year if it provides that it does not come into force until a specified day in the following year.

By-law in
December of
preceding
year

(3) The rate that may be levied on any assessment under subsection (1) shall not exceed 50 per cent of the total of the rates that were levied or would have been levied on that assessment for all purposes in the preceding year.

Determi-
nation of
rate

(4) If the assessment roll for taxation in the current year has not been returned, the rate levied under subsection (1) may be levied on the assessment according to the assessment roll used for taxation purposes in the preceding year.

Assessment
roll

(5) The amount of any levy made on an assessment under subsection (1) shall be deducted from the total amount levied on the assessment for that year under sections 368d, 368f and, if applicable, 368e.

Interim levy
deducted
from final
levy

(6) Where the taxes levied on an assessment for real property or on a business assessment under this section exceed the taxes to be levied on that assessment for the year under sections 368d, 368e and 368f, the treasurer of the local municipality shall, not later than twenty-one days following the giving of a notice of demand of taxes payable, refund to the person assessed that portion of the taxes paid in excess of the amount payable for the year pursuant to a levy made under sections 368d, 368e and 368f.

Interim levy
in excess of
final levy

(7) The provisions of this Act with respect to the levy of the yearly rates and the collection of taxes apply with necessary modifications to the levy of rates and collection of taxes under this section.

Application
provisions re:
levy and
collection of
taxes

368h. Where a direction has been made under subsection 368b (2) that a new assessment roll be returned for taxation in the current year, the Minister may by order prescribe the maximum rates that may be levied in the current year by the council of each local municipality under subsection 368g (1).

Power of
Minister

368i.—(1) In this section,

Definitions

“payment in lieu of taxes” means an amount that a local municipality is eligible to receive under,

- R.S.O. 1980,
c. 31 (a) subsection 26 (3), (4) or (5) of the *Assessment Act*,
- R.S.O. 1980,
c. 209 (b) subsection 7 (6) of the *Housing Development Act*, but not including that portion payable to a school board in accordance with subsection 7 (10) of that Act,
- (c) section 160 and subsection 160a (3) of this Act,
- R.S.O. 1980,
c. 311 (d) subsection 4 (1), (2) or (3) of the *Municipal Tax Assistance Act*,
- R.S.O. 1980,
c. 361 (e) section 42 of the *Ontario Water Resources Act*,
- R.S.O. 1980,
c. 384 (f) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act,
- R.S.O. 1980,
c. 510 (g) section 10 or 11 of the *Trees Act*,
- 1980-81-82-
83,
c. 37 (Can.) (h) the *Municipal Grants Act, 1980* (Canada), or
- (i) any Act of Ontario or of Canada or any agreement where the payment is from any government or government agency and is in lieu of taxes on real property or business assessment, but not including a payment referred to in section 498;

“taxes for county purposes” means the amount to be raised by a lower tier municipality for county purposes as specified in rating by-laws passed under subsections 368e (2) and (3), excluding any adjustments under section 32 or 33 of the *Assessment Act*;

R.S.O. 1980,
c. 31

“taxes for local purposes” means the taxes levied by a lower tier municipality for local purposes under subsection 368f (2), excluding any adjustments under section 32 or 33 of the *Assessment Act*;

“total taxes for all purposes” means the sum of the amounts levied by a lower tier municipality under sections 368d, 368e and 368f, excluding any adjustments under section 32 or 33 of the *Assessment Act*.

Lower tier
municipality
to share
payment in
lieu of taxes

(2) Where a lower tier municipality in a county is eligible to receive a payment in lieu of taxes for any year, it shall pay to the treasurer of the county a portion equal to the amount obtained by multiplying the amount that the lower tier municipality is eligible to receive by the quotient, correct to five

decimal places, obtained by dividing the taxes for county purposes for the year by the total of,

- (a) the taxes for local purposes for the year; and
- (b) the taxes for county purposes for the year.

(3) Notwithstanding subsection (2), if a lower tier municipality is eligible to receive a payment in lieu of taxes for any year under,

Sharing of
certain
payments

- (a) subsection 26 (3), (4) or (5) of the *Assessment Act*; R.S.O. 1980.
c. 31
- (b) section 42 of the *Ontario Water Resources Act*; R.S.O. 1980.
c. 361
- (c) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including the portion payable to a school board in accordance with subsection 46 (9) of that Act; R.S.O. 1980.
c. 384
- (d) section 10 or 11 of the *Trees Act*; or R.S.O. 1980.
c. 510
- (e) the *Municipal Grants Act, 1980* (Canada), 1980-81-82-
83.
c. 37 (Can.)

and the calculation of the payment is based in part on the rates that were levied for school purposes, then the portion to be paid under subsection (2) shall be calculated by multiplying the amount that the lower tier municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for county purposes for the year by the total taxes for all purposes for the year.

(4) The treasurer of each lower tier municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the county and each school board showing an estimate of the amount that the lower tier municipality will be required to pay to the county for the year under subsection (2) and to each school board under subsection 7 (10) of the *Housing Development Act* and under subsection 46 (9) of the *Power Corporation Act*.

Treasurer to
provide
estimate of
share

R.S.O. 1980.
c. 209

(5) Where a local municipality is required to pay a portion of a payment in lieu of taxes to the county under subsection (2), or to a school board, the provisions of,

Allocation of
payments in
lieu of taxes

- (a) subsections 26 (7) and (9) of the *Assessment Act*;
- (b) subsection 7 (10) of the *Housing Development Act*;

(c) subsections 160 (12) and (16) and subsection 160a (4) of this Act; and

R.S.O. 1980,
c. 384

(d) subsection 46 (7) of the *Power Corporation Act*,

with respect to the equalization of assessment or allocation and deposit of payments shall not apply to that entitlement.

Payment of
portion of
telephone
and telegraph
tax

368j.—(1) Each lower tier municipality in a county shall pay a portion of the tax levied by it under subsections 161 (12) and (13) to the county and appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each such body bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes.

Idem

(2) Each city, separated town and separated township shall pay a portion of the tax levied by it under subsections 161 (12) and (13) to the appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each public school board bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes.

Exclusion of
taxes added
to collector's
roll

R.S.O. 1980,
c. 31

(3) In determining the taxes levied on commercial assessment for the purposes of subsection (1) or (2), there shall be excluded any adjustments under section 32 or 33 of the *Assessment Act*.

Statement by
treasurer

(4) The treasurer of each local municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the county and the appropriate public school boards showing an estimate of the amount which the local municipality will be required to pay to that body for the year under subsection (1) or (2).

Non-
application

(5) Subsections 161 (18) to (24) do not apply to a local municipality to which this section applies.

Payment of
payments in
lieu and
telephone
and telegraph
levies

368k.—(1) An amount payable by a local municipality to,

- (a) the county under subsection 368i (2) or 368j (1);
- (b) a public school board under subsection 368j (1) or (2); or
- (c) a school board under subsection 7 (10) of the *Housing Development Act* or under subsection 46 (9) of the *Power Corporation Act*,

R.S.O. 1980,
cc. 209, 384

is a debt of the local municipality to the county or school board, as the case may be, and, subject to subsections (2) and (3), instalments are payable in each year on account thereof as follows:

1. A first instalment equal to 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 31st day of March.
2. A second instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of June.
3. A third instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of September.
4. A fourth instalment of the balance of the entitlement for the year, on or before the 15th day of December.

(2) The council of the county may, by agreement each year with a majority of the lower tier municipalities within the county that represent at least two-thirds of the total weighted assessment for all of the lower tier municipalities within the county, provide by by-law for an alternative number of instalments and due dates thereof other than those provided in subsection (1) which shall be applicable to all the lower tier municipalities in the county.

Alternative
payment
schedule

(3) Where a school board has jurisdiction within a county in which an assessment update has occurred under subsection 368b (2) and an agreement exists for one or more municipalities in accordance with subsection 215 (3) of the *Education Act*, the number of instalments and due dates specified in that agreement shall apply with necessary modifications to those amounts otherwise payable to the school board under subsection (1).

Idem

R.S.O. 1980,
c. 129

(4) An amount payable by a local municipality under subsection 368i (2), subsection 368j (1) or (2), or under subsection 7 (10) of the *Housing Development Act*, or under subsection 46 (9) of the *Power Corporation Act* shall be credited by the county or school board to its general revenues.

General
revenues

R.S.O. 1980,
cc. 209, 384

(5) If a local municipality fails to make any payment as provided under subsection (1) or as altered under subsection (2) or (3), the local municipality shall pay to the county or school board, as applicable, interest on the amount past due at the rate of 15 per cent per annum, or at such lower rate as the

Default

school board or county may by by-law determine from time to time.

Overpayment (6) Where the total amount paid for the year under subsection (1), (2) or (3) exceeds the total amount payable for that purpose in the year, the local municipality shall notify the county or the school board, as the case may be, of the amount of the overpayment and the county or school board shall forthwith pay that amount to the local municipality.

Treasurer's statement (7) On or before the 31st day of December in each year, the treasurer of each local municipality shall deliver to the bodies entitled to a payment under subsection (1), (2) or (3) a statement sufficient to enable the body to determine the correctness of the amount payable in the year.

Transition (8) Notwithstanding subsection (1), in the first year where an assessment update under subsection 368b (2) is instituted as a result of a request under subsection 368b (3), the instalments payable under paragraphs 1, 2 and 3 of subsection (1) shall each be equal to 25 per cent of the amounts estimated under subsections 368i (4) and 368j (4).

Conservation authority apportionments **368l.**—(1) Where changes are made in the assessment rolls of local municipalities under a direction of the Minister of Revenue under subsection 368b (2) and the changes directly affect the relative cost sharing of conservation authority responsibilities for any municipality beyond the county or cause within the county substantial tax shifts between municipalities, property classes or individual properties, the Lieutenant Governor in Council may, in order to minimize such effects, make regulations prescribing an alternative basis of apportionment to that specified under the *Conservation Authorities Act*.

R.S.O. 1980,
c. 85

Regulation may be retroactive (2) A regulation made under subsection (1) may be made retroactive to a date not earlier than the 1st day of January of the year in which it is made.

3.—(1) Subsection 130 (10) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

Non-application

(10) This section does not apply to The Haldimand-Norfolk Roman Catholic Separate School Board, The Sudbury District Roman Catholic Separate School Board or to a separate school board having jurisdiction wholly or partly in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*.

R.S.O. 1980,
c. 302

(2) Subsection 214 (6) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

(6) Subsections (3) and (5) do not apply to an area municipality in The Regional Municipality of Haldimand-Norfolk, The Regional Municipality of Sudbury or to a local municipality in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*.

Non-application

R.S.O. 1980, c. 302

(3) The said Act is amended by adding thereto the following section:

214b.—(1) The Lieutenant Governor in Council may make regulations providing for the apportionment of the sums required by a separate school board to which this section applies among the local municipalities or parts thereof that are situate wholly or partly within its area of jurisdiction.

Regulations for separate school board apportionment

(2) This section applies to those separate school boards having jurisdiction wholly or partly within and partly outside,

Application of section

(a) a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*; and

R.S.O. 1980, c. 302

(b) The Regional Municipality of Haldimand-Norfolk.

(3) In any year in which a regulation made under subsection (1) is in force, the sums mentioned in that subsection shall be apportioned among the local municipalities or parts thereof in accordance with the regulation.

Application of regulation

(4) Where, in making the apportionment in accordance with a regulation made under this section, estimated data are used, an overpayment or underpayment by a local municipality or part thereof determined on the basis of actual data, shall be adjusted in the levy for the following year but this subsection does not apply to a local municipality situate in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act* or to an area municipality in The Regional Municipality of Haldimand-Norfolk.

Where estimated data used

(4) Subsection 222 (4) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

(4) Subsection (2) does not apply to an area municipality in The Regional Municipality of Haldimand-Norfolk, The

Non-application

Regional Municipality of Sudbury or a local municipality in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*.

R.S.O. 1980,
c. 302

(5) Section 225 of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

Conflict

225. In the event of a conflict between any provision in sections 220 to 224 and any provision in any other Act, other than the *Regional Municipality of Haldimand-Norfolk Act*, the *Regional Municipality of Sudbury Act* and section 368d of the *Municipal Act*, the provisions in sections 220 to 224 prevail.

R.S.O. 1980,
cc. 435, 441,
302

Transition

4. Nothing in this Act affects the validity of an interim levy made in the year 1987 under section 159 of the *Municipal Act* prior to the coming into force of this Act by a local municipality in a county where an assessment update has been carried out under subsection 368b (2) in the year 1987 and subsections 368g (4), (5) and (6) of that Act, as enacted by this Act, apply with necessary modifications to any such interim levy.

R.S.O. 1980,
c. 302

Commence-
ment

5. This Act shall be deemed to have come into force on the 1st day of January, 1987.

Short title

6. The short title of this Act is the *Municipal Statute Law Amendment Act, 1987*.

Bill 12

*(Chapter 17
Statutes of Ontario, 1987)*

An Act to amend the Municipal Act and the Education Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



<i>1st Reading</i>	April 30th, 1987
<i>2nd Reading</i>	May 19th, 1987
<i>3rd Reading</i>	May 20th, 1987
<i>Royal Assent</i>	May 21st, 1987

Bill 12

1987

**An Act to amend the
Municipal Act and the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 365 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 45, section 18, is further amended by adding thereto the following subsection:

(20) This section and sections 366 and 368 do not apply in a county where an assessment update has been carried out under subsection 368b (2).

Where
assessment
update
carried out

2. The said Act is amended by adding thereto the following sections:

368a. In sections 368b to 368l,

Definitions

“commercial assessment” means the total, according to the last returned assessment roll, of,

- (a) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal or regional corporation or local board thereof,
- (b) business assessment, and
- (c) the assessment for mineral lands, pipe lines and railway lands, other than railway lands actually in use for residential and farming purposes;

“lower tier municipality” means a town, village or township in a county, but excludes a separated town or separated township;

R.S.O. 1980,
c. 129

“public school board” means a public board as defined in paragraph 42a of subsection 1 (1) of the *Education Act*;

“residential and farm assessment” means the total assessment for real property according to the last returned assessment roll except the assessments for real property mentioned in clauses (a) and (c) of the definition of “commercial assessment”;

“separate school board” means a separate school board as defined in paragraph 59a of subsection 1 (1) of the *Education Act*;

“weighted assessment” means for the relevant area the total of,

- (a) the product obtained by multiplying the residential and farm assessment by 85 per cent, and
- (b) the commercial assessment.

Interpretation

368b.—(1) For the purposes of this section and sections 368c, 368d, 368f and 368g, “county” includes any cities, separated towns and separated townships situate in the county.

County-wide
assessment
update

(2) If the Minister of Revenue considers that, within any class or classes of real property within a county, any parcel or parcels of real property are assessed inequitably with respect to the assessment of any other parcel or parcels of real property of that class, the Minister of Revenue may direct that such changes be made in the assessment to be contained in the assessment roll next to be returned for each local municipality as will, in the Minister’s opinion, eliminate or reduce inequalities in the assessment of any class or classes of real property, and the Minister of Revenue may, for that purpose, make regulations,

- (a) prescribing the classes of real property into which all the real property in the county shall be divided for the purpose of this subsection;
- (b) prescribing standards and procedures to be used for the purpose of equalizing and making equitable the assessments of all real property belonging to the same class throughout the county;

- (c) providing that any equalization of assessment pursuant to a regulation made under clause (b) shall not alter, as between classes of real property throughout the county, the relative level of assessment at market value previously existing among such classes, or providing that the equalization shall alter such levels of assessment at market value no more than is reasonably necessary to provide equitability of assessment within each class.

(3) The Minister of Revenue shall not make a direction under subsection (2) unless, Resolution required

- (a) the council of the county; and
- (b) the councils of a majority of the local municipalities in the county,

have requested by resolution that a direction be made but a resolution is not required where a direction of the Minister of Revenue is made as required under subsection (7).

(4) If the assessment roll of a local municipality for taxation in any year is changed pursuant to a direction of the Minister of Revenue under subsection (2), Application of new assessment roll

- (a) the assessment roll to be returned for that local municipality for taxation in that year shall be the assessment roll as so changed and not the assessment roll that would otherwise have been returned; and
- (b) the assessment roll to be returned in each year following that year shall be the assessment roll returned under clause (a) as amended, added to, or otherwise altered under the *Assessment Act* up to the date when the assessment roll is returned in each such following year. R.S.O. 1980, c. 31

(5) Notwithstanding subsection (4), where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property. Exception

(6) For the purpose of every Act, the assessment roll of a local municipality returned under subsection (4) shall be Status of assessment roll

deemed to be the assessment roll of the local municipality returned under the *Assessment Act*.

Mandatory
return of
updated roll
every fourth
year

(7) In every fourth year following the most recent direction under subsection (2), the Minister of Revenue shall make a direction under subsection (2) for changes to be made to the assessment roll of each local municipality.

Provisions
of
R.S.O. 1980,
c. 31

(8) Except as provided in subsections (2) and (7), the *Assessment Act* and the alterations, corrections, additions and amendments authorized by that Act apply to an assessment roll returned under subsection (4).

Idem

(9) Where a direction has been made under subsection (2) in respect of the assessment roll of a local municipality for purposes of taxation in any year, subsections 63 (1) and (3) and sections 64 and 65 of the *Assessment Act* do not apply to that municipality or to the assessment roll of that local municipality in respect of that year and all subsequent years.

Powers on
appeal

(10) The Assessment Review Board, the Ontario Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Ontario Municipal Board or court is satisfied that the assessment is inequitable with respect to the assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property.

Where
property
described in
class
prescribed
under
subs. (2)

(11) Notwithstanding that a complaint, appeal, proceeding or action concerns an assessment made for taxation in a year prior to the year for which classes of real property were prescribed for the county under subsection (2), for the purpose of determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, real property described in a class prescribed under subsection (2) for the county is not similar to real property described in another class prescribed under subsection (2) for the county, and the inclusion of real property within a class so prescribed does not indicate that the real property is similar to other real property in that class.

No
amendment
to collector's
roll

(12) No amendment shall be made to the assessment or a collector's roll under clause 33 (a) of the *Assessment Act* until the cumulative value of the increase since the date of the most

recent change to the assessment roll under a direction of the Minister of Revenue under subsection (2) is at least in the sum of \$5,000 at market value or, if the assessment in the county is at less than market value, at an equivalent rate.

(13) For purposes of subsection 24 (16a) of the *Assessment Act*, changes made in the assessment roll of a local municipality under a direction of the Minister of Revenue under subsection (2) shall be deemed to be an assessment update of all property within that local municipality under subsection 63 (3) of the *Assessment Act*.

Table of
rates for pipe
lines
R.S.O. 1980,
c. 31

(14) Nothing in section 368d, 368e or 368f in any way deprives any person of any right of appeal provided for in the *Assessment Act* or affects the operation of subsection 36 (6) of that Act.

Rights of
appeal
preserved

(15) A regulation made under subsection (2) may be made retroactive to the 1st day of December of the year preceding the year in which it was made.

Regulations
may be
retroactive

368c.—(1) Sections 368d to 368l apply only if a different assessment of lands in each local municipality in the county has been instituted pursuant to a direction of the Minister of Revenue under subsection 368b (2).

Different
assessment
generally
throughout
the county

(2) Notwithstanding subsection 164 (2) of this Act or subsection 216 (2) of the *Education Act*, where the amount levied by a local municipality for county purposes or school purposes in the year prior to the year for which a change in assessment is made pursuant to a direction of the Minister of Revenue under subsection 368b (2), differs from the sum the local municipality ought to have levied for county purposes or school purposes, the local municipality shall debit or credit such deficit or surplus, as applicable, to the general funds of the municipality and not revise the rates to be levied for such body in the next succeeding year.

Adjustment
of levies
R.S.O. 1980,
c. 129

368d.—(1) In each year, each public school board and separate school board having jurisdiction in part or all of the county shall determine the rates to be levied by the applicable local municipalities in the county to provide the sums required for elementary and secondary school purposes, as the case may be, in that year and shall specify the amount that is to be provided in that year by the application of those rates within each such local municipality in the county.

Determi-
nation of
school rates

(2) The determinations required by subsection (1) shall be made in accordance with subsection 222 (1) of the *Education Act*.

Idem

Direction to
local municipi-
pality

(3) On or before the 1st day of March in each year, the school boards mentioned in subsection (1) shall direct the council of each applicable local municipality in the county to levy the rates determined by the board under subsection (1) and shall advise the local municipality of the amounts of money to be raised by levying those rates in the local municipality.

Local municipi-
pality to levy
and collect

(4) In each year, the council of a local municipality shall levy rates in accordance with the directions under subsection (3) upon all property in the local municipality rateable for public school board or separate school board purposes, as may be appropriate.

Full value to
be used

(5) The full value of all applicable rateable property shall be used in determining,

(a) the weighted assessment for each local municipality for purposes of apportioning among the applicable local municipalities within the county the sums required for school purposes by each public school board and separate school board;

(b) the rates mentioned in subsection (1); and

(c) the assessment upon which the rates are to be levied under sections 128, 133 and 215 of the *Education Act*,

R.S.O. 1980,
c. 129

and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

R.S.O. 1980,
c. 31

Definitions in
R.S.O. 1980,
c. 129, s. 220

(6) For the purposes of determining and levying rates under this section, a reference in the *Education Act* to “commercial assessment” or “residential and farm assessment” shall be deemed to be a reference to such assessments as defined in section 368a of this Act and not as defined in section 220 of that Act.

Non-
application
of
R.S.O. 1980,
c. 129,
s. 219 (2)

(7) Subsection 219 (2) of the *Education Act* does not apply to the determination of rates under subsection (1).

Application
of
R.S.O. 1980,
c. 129

(8) Except as provided in this section, the *Education Act* continues to apply to the levying of rates and collecting of taxes for each public school board and separate school board having jurisdiction in all or part of the county.

Definitions

368e.—(1) In this section,

“general county levy” means the amount required to be raised in any year for general county purposes including the sums required for any board, commission or other body, but excluding those amounts required for school purposes;

“special county levy” means an amount required to be raised by two or more lower tier municipalities in any year for county road or county library purposes where such amount was not included in the determination of the general county levy.

(2) For purposes of raising the general county levy, the council of the county shall, in each year, on or before the 31st day of March, by by-law direct the council of each lower tier municipality in the county to levy a separate rate, as specified in the by-law, on the residential and farm assessment in the lower tier municipality rateable for county purposes and on the commercial assessment in the lower tier municipality rateable for county purposes.

General
county rating
by-law

(3) For purposes of raising a special county levy, the council of the county shall, in each year, on or before the 31st day of March, by by-law direct the council of each applicable lower tier municipality, to levy a separate rate, as specified in the by-law, on the residential and farm assessment in the lower tier municipality rateable for county purposes and on the commercial assessment in the lower tier municipality rateable for county purposes.

Special
county rating
by-law

(4) The rate to be levied in each year, on commercial assessment for each separate levy specified in subsections (2) and (3), shall be determined by multiplying the sum required for each such levy by 1,000 and dividing the product,

Determi-
nation of
commercial
rates

- (a) by the weighted assessment for all lower tier municipalities in the county, in the case of the general county levy; and
- (b) by the weighted assessment of those lower tier municipalities that is rateable for the purpose of raising the special county levy, in the case of a special county levy.

(5) The rate that the council of the county shall direct to be levied on the residential and farm assessment under subsections (2) and (3) shall be 85 per cent of the rate to be levied on commercial assessment in accordance with subsection (4).

Determi-
nation of
residential
rate

(6) In each year, the council of each lower tier municipality in the county shall levy, in accordance with the rating by-laws

Lower tier
municipality
to adopt
rates

passed by the county for that year, the rates specified in the by-law.

Tax exempt
real property

(7) The assessment for real property that is exempt from taxation for county purposes by virtue of any Act or by virtue of a by-law passed by the council of a lower tier municipality under any Act shall not be included when determining weighted assessment for the purposes of subsection (4).

Full value to
be used

(8) The full value of all rateable property shall be used in determining,

(a) rates under subsections (4) and (5); and

(b) the assessment on which a levy shall be made under subsection (6),

R.S.O. 1980,
c. 31

and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

Instalment
payments

(9) A by-law passed under subsection (2) or (3) shall specify the amount to be raised in a lower tier municipality as a result of a levy being made in that lower tier municipality in accordance with the by-law and the by-law shall provide that the amount to be raised by each lower tier municipality shall be paid to the county in the following instalments:

1. 25 per cent of the amount required for county purposes in the prior year, on or before the 31st day of March,
2. 50 per cent of the amount required for county purposes in the current year, less the amount of the instalment paid under paragraph 1, on or before the 30th day of June,
3. 25 per cent of such current amount, on or before the 30th day of September,
4. the balance of the entitlement for the year, on or before the 15th day of December,

and the by-law may provide that the county shall pay interest at a rate to be determined by the council of the county on any payment required, or portion thereof, made in advance by any lower tier municipality.

Idem

(10) Notwithstanding subsection (9), the council of a county may, by agreement with a majority of the lower tier municipalities in the counties representing at least two-thirds

of the weighted assessment of all the lower tier municipalities in the county, provide by by-law for any number of instalments and due dates thereof other than those provided in subsection (9) and those alternative instalments and due dates shall be applicable to all the lower tier municipalities in the county.

(11) The amount specified to be raised in a lower tier municipality pursuant to a rating by-law under subsection (2) or (3) shall be deemed to be taxes and is a debt of the lower tier municipality to the county and the treasurer of the lower tier municipality shall pay the amount owing by the lower tier municipality to the treasurer of the county on or before the dates and in the portions specified in the rating by-law.

Payment

(12) If a lower tier municipality fails to make any payment, or portion thereof, as provided in a rating by-law passed under subsection (2) or (3), the lower tier municipality shall pay to the county interest on the amount in default at the rate of 15 per cent per annum, or such lower rate as the council of the county may by by-law determine, from the date payment is due until it is made.

Default

(13) The Minister by order may extend the time for passing a rating by-law in any year and such an order may be made notwithstanding that the time limits set out in subsection (2) or (3) have expired.

Extension of time

(14) Notwithstanding subsections (4) and (5), the Lieutenant Governor in Council may, in a regulation made under section 9a of the *Ontario Unconditional Grants Act*, prescribe an alternative basis on which apportionments are to be made and may prescribe the manner of determining the mill rates to be specified and determined under subsections (2) and (3).

Alternative basis of apportionment
R.S.O. 1980, c. 359

(15) A basis of apportionment prescribed by the Lieutenant Governor in Council under subsection (14) shall be deemed to have been prescribed under subsection 9a (1) of the *Ontario Unconditional Grants Act* as an alternative to the basis of apportionment that would have been prescribed for the county under subsection 9a (1) if the county had not been subject to an assessment update under subsection 368b (2).

Deeming provision

368f.—(1) In this section,

Definitions

“local municipality levy” means the amount required for local municipality purposes under section 164 including the sums required for any board, commission or other body, but excluding those amounts required to be raised for county and school purposes;

“special local municipality levy” means an amount to be raised by a local municipality that is not included in the local municipality levy, but excluding those amounts required to be raised for county and school purposes.

Local municipality levies

(2) The council of each local municipality in a county shall, in each year in accordance with subsections (3) and (4), levy separate rates on the whole of the rateable commercial assessment and on the whole of the rateable residential and farm assessment in respect of the local municipality levy and the special local municipality levy.

Determination of commercial mill rates

(3) The rates to be levied in each year, on commercial assessment for each separate levy specified in subsection (2), shall be determined by multiplying the sum required for each levy by 1,000 and dividing the product,

(a) by the weighted assessment for the local municipality, in the case of a local municipality levy; and

(b) by the weighted assessment that is rateable for the purpose of raising the special local municipality levy, in the case of a special local municipality levy.

Determination of residential mill rates

(4) The rates to be levied in each year, on residential and farm assessment for each separate levy specified in subsection (2), shall be 85 per cent of the rate to be levied on commercial assessment in accordance with subsection (3).

Non-application of R.S.O. 1980, c. 359, s. 7

(5) Section 158 of this Act and section 7 of the *Ontario Unconditional Grants Act* do not apply to a local municipality to which this section applies.

Local municipality levy

(6) A reference in any other section of this Act or in any other Act to a levy by a local municipality under section 158 of this Act or section 7 of the *Ontario Unconditional Grants Act* shall, with respect to a local municipality to which this section applies, be deemed to be a reference to a levy under this section or under section 368e, as the case may be.

Tax exempt real property

(7) The assessment for real property that is exempt from taxation for local municipality purposes by virtue of any Act or by virtue of a by-law passed by the council of a local municipality under any Act shall not be included when determining the weighted assessment for purposes of clause (3) (a) or (b).

Interim financing, local municipalities

368g.—(1) The council of a local municipality in a county may for any year, before the adoption of the estimates for the year, levy such rates as it may determine on the rateable com-

mercial assessment and on the rateable residential and farm assessment in the local municipality.

(2) A by-law for levying rates under subsection (1) shall be passed in the year that the rates are to be levied or may be passed in December of the preceding year if it provides that it does not come into force until a specified day in the following year. —

By-law in
December of
preceding
year

(3) The rate that may be levied on any assessment under subsection (1) shall not exceed 50 per cent of the total of the rates that were levied or would have been levied on that assessment for all purposes in the preceding year.

Determi-
nation of
rate

(4) If the assessment roll for taxation in the current year has not been returned, the rate levied under subsection (1) may be levied on the assessment according to the assessment roll used for taxation purposes in the preceding year.

Assessment
roll

(5) The amount of any levy made on an assessment under subsection (1) shall be deducted from the total amount levied on the assessment for that year under sections 368d, 368f and, if applicable, 368e.

Interim levy
deducted
from final
levy

(6) Where the taxes levied on an assessment for real property or on a business assessment under this section exceed the taxes to be levied on that assessment for the year under sections 368d, 368e and 368f, the treasurer of the local municipality shall, not later than twenty-one days following the giving of a notice of demand of taxes payable, refund to the person assessed that portion of the taxes paid in excess of the amount payable for the year pursuant to a levy made under sections 368d, 368e and 368f.

Interim levy
in excess of
final levy

(7) The provisions of this Act with respect to the levy of the yearly rates and the collection of taxes apply with necessary modifications to the levy of rates and collection of taxes under this section.

Application
provisions re:
levy and
collection of
taxes

368h. Where a direction has been made under subsection 368b (2) that a new assessment roll be returned for taxation in the current year, the Minister may by order prescribe the maximum rates that may be levied in the current year by the council of each local municipality under subsection 368g (1).

Power of
Minister

368i.—(1) In this section,

Definitions

“payment in lieu of taxes” means an amount that a local municipality is eligible to receive under,

- R.S.O. 1980,
c. 31 (a) subsection 26 (3), (4) or (5) of the *Assessment Act*,
- R.S.O. 1980,
c. 209 (b) subsection 7 (6) of the *Housing Development Act*,
but not including that portion payable to a school
board in accordance with subsection 7 (10) of that
Act,
- (c) section 160 and subsection 160a (3) of this Act,
- R.S.O. 1980,
c. 311 (d) subsection 4 (1), (2) or (3) of the *Municipal Tax
Assistance Act*,
- R.S.O. 1980,
c. 361 (e) section 42 of the *Ontario Water Resources Act*,
- R.S.O. 1980,
c. 384 (f) subsection 46 (2), (3), (4) or (5) of the *Power
Corporation Act*, but not including that portion pay-
able to a school board in accordance with sub-
section 46 (9) of that Act,
- R.S.O. 1980,
c. 510 (g) section 10 or 11 of the *Trees Act*,
- 1980-81-82-
83,
c. 37 (Can.) (h) the *Municipal Grants Act, 1980* (Canada), or
- (i) any Act of Ontario or of Canada or any agreement
where the payment is from any government or
government agency and is in lieu of taxes on real
property or business assessment, but not including a
payment referred to in section 498;

R.S.O. 1980,
c. 31

“taxes for county purposes” means the amount to be raised by
a lower tier municipality for county purposes as specified in
rating by-laws passed under subsections 368e (2) and (3),
excluding any adjustments under section 32 or 33 of the
Assessment Act;

“taxes for local purposes” means the taxes levied by a lower
tier municipality for local purposes under subsection
368f (2), excluding any adjustments under section 32 or 33
of the *Assessment Act*;

“total taxes for all purposes” means the sum of the amounts
levied by a lower tier municipality under sections 368d,
368e and 368f, excluding any adjustments under section 32
or 33 of the *Assessment Act*.

Lower tier
municipality
to share
payment in
lieu of taxes

(2) Where a lower tier municipality in a county is eligible to
receive a payment in lieu of taxes for any year, it shall pay to
the treasurer of the county a portion equal to the amount
obtained by multiplying the amount that the lower tier muni-
cipality is eligible to receive by the quotient, correct to five

decimal places, obtained by dividing the taxes for county purposes for the year by the total of,

- (a) the taxes for local purposes for the year; and
- (b) the taxes for county purposes for the year.

(3) Notwithstanding subsection (2), if a lower tier municipality is eligible to receive a payment in lieu of taxes for any year under,

Sharing of
certain
payments

- (a) subsection 26 (3), (4) or (5) of the *Assessment Act*; R.S.O. 1980, c. 31
- (b) section 42 of the *Ontario Water Resources Act*; R.S.O. 1980, c. 361
- (c) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including the portion payable to a school board in accordance with subsection 46 (9) of that Act; R.S.O. 1980, c. 384
- (d) section 10 or 11 of the *Trees Act*; or R.S.O. 1980, c. 510
- (e) the *Municipal Grants Act, 1980* (Canada), 1980-81-82-83, c. 37 (Can.)

and the calculation of the payment is based in part on the rates that were levied for school purposes, then the portion to be paid under subsection (2) shall be calculated by multiplying the amount that the lower tier municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for county purposes for the year by the total taxes for all purposes for the year.

(4) The treasurer of each lower tier municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the county and each school board showing an estimate of the amount that the lower tier municipality will be required to pay to the county for the year under subsection (2) and to each school board under subsection 7 (10) of the *Housing Development Act* and under subsection 46 (9) of the *Power Corporation Act*.

Treasurer to
provide
estimate of
share

R.S.O. 1980,
c. 209

(5) Where a local municipality is required to pay a portion of a payment in lieu of taxes to the county under subsection (2), or to a school board, the provisions of,

Allocation of
payments in
lieu of taxes

- (a) subsections 26 (7) and (9) of the *Assessment Act*;
- (b) subsection 7 (10) of the *Housing Development Act*;

(c) subsections 160 (12) and (16) and subsection 160a (4) of this Act; and

R.S.O. 1980,
c. 384

(d) subsection 46 (7) of the *Power Corporation Act*,

with respect to the equalization of assessment or allocation and deposit of payments shall not apply to that entitlement.

Payment of
portion of
telephone
and telegraph
tax

368j.—(1) Each lower tier municipality in a county shall pay a portion of the tax levied by it under subsections 161 (12) and (13) to the county and appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each such body bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes.

Idem

(2) Each city, separated town and separated township shall pay a portion of the tax levied by it under subsections 161 (12) and (13) to the appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each public school board bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes.

Exclusion of
taxes added
to collector's
roll

R.S.O. 1980,
c. 31

(3) In determining the taxes levied on commercial assessment for the purposes of subsection (1) or (2), there shall be excluded any adjustments under section 32 or 33 of the *Assessment Act*.

Statement by
treasurer

(4) The treasurer of each local municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the county and the appropriate public school boards showing an estimate of the amount which the local municipality will be required to pay to that body for the year under subsection (1) or (2).

Non-
application

(5) Subsections 161 (18) to (24) do not apply to a local municipality to which this section applies.

Payment of
payments in
lieu and
telephone
and telegraph
levies

368k.—(1) An amount payable by a local municipality to,

(a) the county under subsection 368i (2) or 368j (1);

(b) a public school board under subsection 368j (1) or (2); or

(c) a school board under subsection 7 (10) of the *Housing Development Act* or under subsection 46 (9) of the *Power Corporation Act*,

R.S.O. 1980,
cc. 209, 384

is a debt of the local municipality to the county or school board, as the case may be, and, subject to subsections (2) and (3), instalments are payable in each year on account thereof as follows:

1. A first instalment equal to 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 31st day of March.
2. A second instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of June.
3. A third instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of September.
4. A fourth instalment of the balance of the entitlement for the year, on or before the 15th day of December.

(2) The council of the county may, by agreement each year with a majority of the lower tier municipalities within the county that represent at least two-thirds of the total weighted assessment for all of the lower tier municipalities within the county, provide by by-law for an alternative number of instalments and due dates thereof other than those provided in subsection (1) which shall be applicable to all the lower tier municipalities in the county.

Alternative
payment
schedule

(3) Where a school board has jurisdiction within a county in which an assessment update has occurred under subsection 368b (2) and an agreement exists for one or more municipalities in accordance with subsection 215 (3) of the *Education Act*, the number of instalments and due dates specified in that agreement shall apply with necessary modifications to those amounts otherwise payable to the school board under subsection (1).

Idem

R.S.O. 1980,
c. 129

(4) An amount payable by a local municipality under subsection 368i (2), subsection 368j (1) or (2), or under subsection 7 (10) of the *Housing Development Act*, or under subsection 46 (9) of the *Power Corporation Act* shall be credited by the county or school board to its general revenues.

General
revenues

R.S.O. 1980,
cc. 209, 384

(5) If a local municipality fails to make any payment as provided under subsection (1) or as altered under subsection (2) or (3), the local municipality shall pay to the county or school board, as applicable, interest on the amount past due at the rate of 15 per cent per annum, or at such lower rate as the

Default

school board or county may by by-law determine from time to time.

Overpayment (6) Where the total amount paid for the year under subsection (1), (2) or (3) exceeds the total amount payable for that purpose in the year, the local municipality shall notify the county or the school board, as the case may be, of the amount of the overpayment and the county or school board shall forthwith pay that amount to the local municipality.

Treasurer's statement (7) On or before the 31st day of December in each year, the treasurer of each local municipality shall deliver to the bodies entitled to a payment under subsection (1), (2) or (3) a statement sufficient to enable the body to determine the correctness of the amount payable in the year.

Transition (8) Notwithstanding subsection (1), in the first year where an assessment update under subsection 368b (2) is instituted as a result of a request under subsection 368b (3), the instalments payable under paragraphs 1, 2 and 3 of subsection (1) shall each be equal to 25 per cent of the amounts estimated under subsections 368i (4) and 368j (4).

Conservation authority apportionments **368l.**—(1) Where changes are made in the assessment rolls of local municipalities under a direction of the Minister of Revenue under subsection 368b (2) and the changes directly affect the relative cost sharing of conservation authority responsibilities for any municipality beyond the county or cause within the county substantial tax shifts between municipalities, property classes or individual properties, the Lieutenant Governor in Council may, in order to minimize such effects, make regulations prescribing an alternative basis of apportionment to that specified under the *Conservation Authorities Act*.

R.S.O. 1980,
c. 85

Regulation may be retroactive (2) A regulation made under subsection (1) may be made retroactive to a date not earlier than the 1st day of January of the year in which it is made.

3.—(1) Subsection 130 (10) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

Non-application (10) This section does not apply to The Haldimand-Norfolk Roman Catholic Separate School Board, The Sudbury District Roman Catholic Separate School Board or to a separate school board having jurisdiction wholly or partly in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*.

R.S.O. 1980,
c. 302

(2) Subsection 214 (6) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

(6) Subsections (3) and (5) do not apply to an area municipality in The Regional Municipality of Haldimand-Norfolk, The Regional Municipality of Sudbury or to a local municipality in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*.

Non-application

R.S.O. 1980,
c. 302

(3) The said Act is amended by adding thereto the following section:

214b.—(1) The Lieutenant Governor in Council may make regulations providing for the apportionment of the sums required by a separate school board to which this section applies among the local municipalities or parts thereof that are situate wholly or partly within its area of jurisdiction.

Regulations
for separate
school board
apportionment

(2) This section applies to those separate school boards having jurisdiction wholly or partly within and partly outside,

Application
of section

(a) a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*; and

R.S.O. 1980,
c. 302

(b) The Regional Municipality of Haldimand-Norfolk.

(3) In any year in which a regulation made under subsection (1) is in force, the sums mentioned in that subsection shall be apportioned among the local municipalities or parts thereof in accordance with the regulation.

Application
of regulation

(4) Where, in making the apportionment in accordance with a regulation made under this section, estimated data are used, an overpayment or underpayment by a local municipality or part thereof determined on the basis of actual data, shall be adjusted in the levy for the following year but this subsection does not apply to a local municipality situate in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act* or to an area municipality in The Regional Municipality of Haldimand-Norfolk.

Where
estimated
data used

(4) Subsection 222 (4) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

(4) Subsection (2) does not apply to an area municipality in The Regional Municipality of Haldimand-Norfolk, The

Non-application

Regional Municipality of Sudbury or a local municipality in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*.

R.S.O. 1980,
c. 302

(5) Section 225 of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 19, section 2, is repealed and the following substituted therefor:

Conflict

225. In the event of a conflict between any provision in sections 220 to 224 and any provision in any other Act, other than the *Regional Municipality of Haldimand-Norfolk Act*, the *Regional Municipality of Sudbury Act* and section 368d of the *Municipal Act*, the provisions in sections 220 to 224 prevail.

R.S.O. 1980,
cc. 435, 441,
302

Transition

4. Nothing in this Act affects the validity of an interim levy made in the year 1987 under section 159 of the *Municipal Act* prior to the coming into force of this Act by a local municipality in a county where an assessment update has been carried out under subsection 368b (2) in the year 1987 and subsections 368g (4), (5) and (6) of that Act, as enacted by this Act, apply with necessary modifications to any such interim levy.

R.S.O. 1980,
c. 302

Commence-
ment

5. This Act shall be deemed to have come into force on the 1st day of January, 1987.

Short title

6. The short title of this Act is the *Municipal Statute Law Amendment Act, 1987*.

Bill 13

An Act to amend the Planning Act, 1983

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading April 30th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTIONS 1 and 2. The addition of the proposed subsection 4 (2a) and the amendment to subsection 5 (2) of the Act will ensure that when the Minister's consent-granting authority has been delegated, the same provisions will apply to the exercise of that authority as apply to municipal councils and delegates thereof.

SECTION 3.—Subsection 1. Subsections 17 (14) to (17) of the Act now read as follows:

(14) The parties to a referral are the person or other body, if any, that requested the referral, the municipality and any person or other body added as a party by the Municipal Board.

(15) The Municipal Board may add as a party to the referral any person, including the Minister or other body who applies to the Board to be added as a party.

(16) Despite the fact that a person is not a party to the referral, the Municipal Board may permit the person to make representations at the hearing.

(17) On a referral to the Municipal Board, the Board shall hold a hearing of which notice shall be given to the parties to the referral, and to such other persons or bodies as the Board considers appropriate.

As re-enacted, subsection 17 (14) will permit the Municipal Board to, in effect, establish the parties on a reference to the Board in respect of an official plan.

Subsection 2. Subsection 17 (19) of the Act provides that where an official plan is before the Municipal Board on a reference, the Minister of Municipal Affairs may advise the Board by a notice in writing that a matter of provincial interest is adversely affected by the plan or part thereof, and thereupon the decision of the Board on that part of the plan identified in the notice is not binding unless confirmed by the Lieutenant Governor in Council. The amendment will permit the Minister to give the notice whenever a provincial interest is affected, whether adversely or beneficially.

SECTION 4. Subsection 20 (1) of the Act now reads as follows:

(1) Two certified copies of the official plan shall be lodged in the office of the Minister and one certified copy in the office of the clerk of each municipality specified by the Minister.

The requirement that copies of the plan be lodged in the office of the Minister has been found to be unnecessary and is deleted.

SECTIONS 5, 6 and 7. These amendments are to the same effect as that set out in subsection 3 (2) of the Bill and are in respect of amendments to an official plan.

SECTION 8.—Subsection 1. Subsection 24 (2) of the Act permits the council of a municipality that has adopted an amendment to an official plan to pass a by-law that doesn't conform with the plan but will conform if the amendment is approved. As re-enacted, the subsection takes into account the fact that in some instances it is the upper-tier municipal council that is responsible for the official plan that applies to a lower-tier municipality.

Subsection 2. Subsection 24 (4) of the Act provides that where a zoning by-law is not appealed or if appealed the appeal is dismissed or if the by-law is amended as directed on the appeal, then the by-law is deemed to be in conformity with an official plan that is in effect in the municipality. Clause 24 (4) (b), as re-enacted, recognizes that under subsection 34 (27) the Municipal Board on an appeal may itself amend the by-law rather than direct the council of the municipality to do so.

SECTION 9. Subsections 28 (6) and (7) of the Act confer certain powers on a municipality for the purpose of carrying out a community improvement plan, the exercise of which could contravene the restrictions on the granting by a municipal council of assistance to business or commercial enterprises set out in subsection 112 (1) of the *Municipal Act*. Subsection 112 (2) of that Act creates an exception where the council is exercising any of its powers or authority under subsection 28 (6) or (7) of the *Planning Act, 1983* with the approval of the Minister of Municipal Affairs. The proposed new subsection 28 (7a) of the *Planning Act, 1983* explicitly authorizes the Minister to approve the exercise of such power in order that the exception may apply.

SECTION 10.—Subsection 1. Subsection 33 (7) of the Act enables the council of a municipality to attach conditions to a demolition permit for residential property; the new subsection (7a) permits registration of notice of any conditions imposed against the land to which the permit applies.

Subsection 2. Subsection 33 (10) of the Act now permits any person who has obtained a demolition permit under subsection 33 (6) to apply to council for relief from the conditions attached to the demolition permit; under subsection (10), as re-enacted, such an application may be made by a person who has subsequently become the owner of the permit.

New subsection (10a) permits council to extend the time for making an application for relief under subsection (10).

SECTION 11.—Subsection 1. Subsections 34 (12) and (13) of the Act set out certain requirements to be met by a municipal council before passing a zoning by-law and now read as follows:

(12) Before passing a by-law under this section, the council shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in the manner and to the persons prescribed, for the purpose of informing the public in respect of the proposed by-law.

(13) The meeting mentioned in subsection (12) shall be held not sooner than thirty days after the requirements for the giving of notice have been complied with and shall be open to the public, and any person who attends the meeting shall be afforded an opportunity to make representation in respect of the proposed by-law.

The re-enactment of subsection (12) makes it clear those requirements do not apply when the by-law is passed on the direction of the Municipal Board following an appeal to it and is rephrased to indicate more accurately the type of information that is to be made available to the public.

The re-enactment of subsection (13) reduces from thirty to twenty days the minimum period of time that must elapse between the giving of the notice and the holding of the meeting.

Subsection 2. The re-enactment of subsection 34 (15) of the Act requires council to forward the information to boards, commissions and other agencies that may have an interest in the matter not less than twenty days before passing the by-law.

New subsection (15a) permits such a board, etc., to require up to an additional ten days to submit comments on the zoning proposal.

Subsection 3. The re-enactment of subsections 34 (17) and (18) and the enactment of new subsection 34 (18a) vary the time within which an appeal of a zoning by-law may be brought. The appeal period will commence to run from the day notice of the passing of the by-law is given rather than from the day the by-law is passed and the effect is to shorten the appeal period when a municipality is prompt in giving notice of the passing of the by-law.

Subsection 4. The re-enactment of subsection 34 (22) of the Act is to the same effect as that set out in subsection 3 (1) of the Bill in relation to the power of the Municipal Board to establish the parties on an appeal to the Board in respect of a zoning by-law.

Subsection 5. The amendment is similar in intent to that set out in subsection 3 (2) of the Bill and refers to a matter of provincial interest affected by a zoning by-law.

SECTION 12. Subsection 35 (2) of the Act provides that a zoning by-law of a local municipality shall not include a “holding provision” unless its official plan contains provisions relating to that concept. As re-enacted, the subsection recognizes that in some instances it is the upper-tier municipal council that is responsible for the official plan that applies to a lower-tier municipality.

SECTION 13. The re-enactment of subsection 36 (2) of the Act is to the same intent as the amendment set out in section 12 of the Bill and refers to increased density provisions in a zoning by-law.

SECTION 14. The paragraph added to clause 40 (8) (a) of the Act empowers an upper-tier municipality to require matters relating to drainage to be provided to its satisfaction in connection with site plan control approvals.

SECTION 15. The re-enactment of subsection 41 (4) of the Act is to the same effect as that set out in sections 12 and 13 of the Bill and refers to a requirement as a condition of development or redevelopment of land that land be conveyed to a municipality for park purposes at a rate of not more than one hectare for each 300 dwelling units proposed.

SECTION 16. These amendments make consistent the appeal procedures on minor variance decisions under section 44 with those that apply to consent decisions under section 52.

SECTION 17. The amendment is similar to that set out in subsections 3 (2) and 11 (5) of the Bill and refers to a matter of provincial interest that is affected by a proposed revocation or amendment of a zoning or subdivision control order made by the Minister under subsection 46 (1) of the Act.

SECTION 18. The amendment is complementary to those set out in sections 1 and 2 of the Bill to ensure that the same provisions will apply in the exercise of the Minister's delegated consent-granting authority.

SECTION 19.—Subsection 1. Subsection 52 (7) of the Act describes who is entitled to appeal a decision on an application for a consent and is set out below, showing underlined the words to be added by the amendment:

(7) The applicant, the Minister and every agency or other person to whom notice of the decision was sent either as required under subsection (5) or otherwise, including notice sent in accordance with a condition of delegation of the authority to grant consents may within thirty days of the making of the decision appeal to the Municipal Board against the decision by filing with the clerk of the municipality, the council of which made the decision, a notice of appeal setting out written reasons in support of the appeal and accompanied by payment to the clerk of the fee prescribed by the Board under the Ontario Municipal Board Act.

The amendment is intended to make it clear that whoever is sent a notice of the decision is entitled to appeal it, including a body who had delegated the authority to grant the consent.

Subsection 2. Subsection 52 (20) of the Act provides that where conditions imposed on the granting of a consent are not fulfilled within one year of the granting of the consent, the application for the consent shall be deemed to be refused; the words added by the amendment provide that where there has been an appeal or reference to the Municipal

Board, the one-year period does not commence to run until the date of the Board's order on the appeal or referral.

SECTION 20. Subsection 56 (1) of the Act permits the validation by order of the Minister of conveyances of land made before the 19th day of March, 1973, that contravened the subdivision control provisions of the Act. The re-enactment permits such validation whether the contravention occurred before or after the 19th day of March, 1973.

SECTION 21. Under the Act, planning boards may charge fees only when planning functions have been assigned to them by the Minister. The re-enactment of subsections 68 (1) and (2) will permit planning boards to charge fees in respect of any of their planning functions.

SECTION 22. Complementary to section 21 of the Bill.

Bill 13

1987

An Act to amend the Planning Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Planning Act, 1983*, being chapter 1, is amended by adding thereto the following subsection:

(2a) Despite subsections (1) and (2), where the Minister has delegated the authority of the Minister for the granting of consents under section 52, the provisions of subsections 52 (2) to (9) and (15) to (22) apply, with necessary modifications and the provisions of subsections 52 (10) to (14) do not apply, in the exercise of that authority.

Where
authority to
grant
consents
delegated

2. Subsection 5 (2) of the said Act is amended by striking out “and the provisions of subsections 52 (2) to (9) and (15) to (22) apply with necessary modifications in the exercise of that authority” in the seventh, eighth and ninth lines.

3.—(1) Subsections 17 (14), (15), (16) and (17) of the said Act are repealed and the following substituted therefor:

(14) On a referral to the Municipal Board, the Board shall hold a hearing, of which notice shall be given to such persons or bodies and in such manner as the Board may determine.

Hearing and
notice
thereof

(2) Subsection 17 (19) of the said Act is amended by striking out “adversely” in the fourth line and in the ninth line.

4. Subsection 20 (1) of the said Act is repealed and the following substituted therefor:

(1) A certified copy of the official plan shall be lodged in the office of the clerk of each municipality to which the plan, or any part of the plan, applies.

Lodging of
plan

5. Subsection 21 (2) of the said Act is amended by striking out “adversely” in the second line.

6. Subsection 22 (5) of the said Act is amended by striking out “adversely” in the fourth line and in the ninth line.

7. Subsection 23 (1) of the said Act is amended by striking out “adversely” in the third line.

8.—(1) Subsection 24 (2) of the said Act is repealed and the following substituted therefor:

Validity of
by-laws
conforming
with
amendments
to plans

(2) Where a council has adopted an amendment to an official plan, the council of any municipality to which the plan or any part of the plan applies may, before the Minister has approved the amendment, pass a by-law that does not conform with the official plan but will conform therewith if the amendment is approved, and the by-law shall be conclusively deemed to have conformed with the official plan on and from the day it was passed if the Minister approves the amendment to the official plan.

(2) Clause 24 (4) (b) of the said Act is repealed and the following substituted therefor:

(b) an appeal is taken and the appeal is dismissed or the by-law is amended by the Municipal Board or as directed by the Municipal Board.

9. Section 28 of the said Act is amended by adding thereto the following subsection:

Approval of
Minister

R.S.O. 1980,
c. 302

(7a) Where the council of the municipality proposes to exercise any power or authority under subsection (6) or (7) that would be prohibited under subsection 112 (1) of the *Municipal Act*, the Minister may approve the exercise of such power or authority in order that the exception provided for in subsection 112 (2) of the *Municipal Act* will apply.

10.—(1) Section 33 of the said Act is amended by adding thereto the following subsection:

Registration
of notice

(7a) Notice of any condition imposed under subsection (7) may be registered in the proper land registry office against the land to which it applies.

(2) Subsection 33 (10) of the said Act is repealed and the following substituted therefor:

Application
to council for
relief from
conditions of
demolition
permit

(10) Where a condition has been imposed under subsection (7) and the holder of the demolition permit considers that it is not possible to complete the new building within the time specified in the permit or where the holder of the permit is of

the opinion that the construction of the new building has become not feasible on economic or other grounds, he or she may apply to the council of the municipality for relief from the conditions on which the permit was issued, by sending notice of application by registered mail to the clerk of the municipality not less than sixty days before the time specified in the permit for the completion of the new building and where the council under subsection (11) extends the time for completion of the new building, application may similarly be made for relief by sending notice of application not less than sixty days before the expiry of the extended completion time.

(10a) Despite subsection (10), the council may, at any time, extend the date specified in that subsection for the making of an application for relief from the conditions on which the permit was issued.

Extension of
time

11.—(1) Subsections 34 (12) and (13) of the said Act are repealed and the following substituted therefor:

(12) Before passing a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection (11) or (27), the council shall ensure that sufficient information is made available to enable the public to understand generally the zoning proposal that is being considered by the council, and for this purpose shall hold at least one public meeting, notice of which shall be given in the manner and to the persons prescribed.

Information
and public
meeting

(13) The meeting mentioned in subsection (12) shall be held not sooner than twenty days after the requirements for the giving of notice have been complied with and shall be open to the public, and any person who attends the meeting shall be afforded an opportunity to make representation in respect of the zoning proposal.

Time for
meeting, etc.

(2) Subsection 34 (15) of the said Act is repealed and the following substituted therefor:

(15) The council shall forward to such boards, commissions, authorities or other agencies as the council considers may have an interest in the zoning proposal sufficient information to enable them to understand it generally and such information shall be forwarded not less than twenty days before passing a by-law implementing the proposal.

Information
to agencies,
etc.

(15a) Where a board, commission, authority or other agency receives information under subsection (15), such board, commission, authority or agency may in writing notify the clerk of the municipality at any time before the expiry of

Extension of
time for
submission of
comments

the twenty-day period mentioned in subsection (15) that a further period of time is required to submit comments in respect of the zoning proposal and where notice is so given, a by-law implementing the proposal may not be passed until either the comments have been received by the council or thirty days have elapsed from the date that the information was forwarded under subsection (15), whichever first occurs.

(3) Subsections 34 (17) and (18) of the said Act are repealed and the following substituted therefor:

Notice of
passing of
by-law

(17) Where the council passes a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection (11) or (27), the clerk of the municipality shall give written notice of the passing of the by-law in the manner and in the form and to the persons and agencies prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (18).

Appeal to
O.M.B.

(18) Any person, including the Minister or agency, may, not later than the twentieth day after the day that the giving of written notice as required by subsection (17) is completed, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

When giving
of notice
deemed
completed

(18a) For the purposes of subsection (18), the giving of written notice shall be deemed to be completed,

- (a) where notice is given by publication in a newspaper, on the day that such publication occurs;
- (b) where notice is given by personal service, on the day that the serving of all required notices is completed; and
- (c) where notice is given by mail, on the day that the mailing of all required notices is completed.

(4) Subsections 34 (22), (23), (24) and (25) of the said Act are repealed and the following substituted therefor:

Hearing and
notice
thereof

(22) On an appeal to the Municipal Board, the Board shall hold a hearing of which notice shall be given to such persons or bodies and in such manner as the Board may determine.

(5) Subsection 34 (28) of the said Act is amended by striking out "adversely" in the third line and in the eighth line.

12. Subsection 35 (2) of the said Act is repealed and the following substituted therefor:

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the use of the holding symbol mentioned in subsection (1). Condition

13. Subsection 36 (2) of the said Act is repealed and the following substituted therefor:

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the authorization of increases in height and density of development. Condition

14. Clause 40 (8) (a) of the said Act is amended by adding thereto the following paragraph:

4. Where the land abuts a highway under the jurisdiction of the county or regional, metropolitan or district municipality, grading or alteration in elevation or contour of the land in relation to the elevation of the highway and provision for the disposal of storm and surface water from the land.

15. Subsection 41 (4) of the said Act is repealed and the following substituted therefor:

(4) The alternative requirement authorized by subsection (3) may not be provided for in a by-law passed under this section unless there is an official plan in effect in the local municipality that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement. Official plan requirement

16.—(1) Subsection 44 (10) of the said Act is amended by striking out “by mail” in the second line.

(2) Subsection 44 (12) of the said Act is amended by striking out “serving personally on or sending by registered mail to” in the fourth and fifth lines and inserting in lieu thereof “filing with”.

(3) Subsection 44 (13) of the said Act is amended by striking out “served or sent to him” in the second line and inserting in lieu thereof “filed”.

17. Subsection 46 (15) of the said Act is amended by striking out “adversely” in the fourth line.

18. Subsection 49 (1) of the said Act is amended by striking out “section 52 to the Minister or to a council, as the case may be, includes a delegate thereof as provided for in sections 4, 5 and 53” in the twenty-ninth, thirtieth and thirty-first lines and inserting in lieu thereof “subsections 52 (1), (2), (17), (18), (19), (21) and (22) to the Minister includes a delegate of the Minister, as provided for in sections 4 and 54, and a reference herein and in section 52 to a council includes a delegate of a council, as provided for in sections 5 and 53”.

19.—(1) Subsection 52 (7) of the said Act is amended by inserting after “sent” in the second line “either as required under subsection (5) or otherwise, including notice sent in accordance with a condition of delegation of the authority to grant consents”.

(2) Subsection 52 (20) of the said Act is amended by adding at the end thereof “but where there is an appeal under subsection (7) or (8), or a referral under subsection (13) or (14), the application for consent shall not be deemed to be refused for failure to fulfill the conditions until the expiry of a period of one year from the date of the order of the Municipal Board issued in respect of the appeal or referral”.

20. Subsection 56 (1) of the said Act is repealed and the following substituted therefor:

Effect of
contravention
of s. 49, etc.

(1) The Minister may by order in respect of land described in the order provide that the contravention of section 49 or a predecessor thereof or of a by-law passed under a predecessor of section 49 or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land, provided that the order does not affect the rights acquired by any person from a judgment or order of any court, given or made on or before the day on which the order is made by the Minister.

21. Subsections 68 (1) and (2) of the said Act are repealed and the following substituted therefor:

Tariff of fees

(1) The council of a municipality, by by-law, and a planning board, by resolution, may prescribe a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anti-ci-

pated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality or to the planning board in respect of the processing of each type of application provided for in the tariff.

(2) Notwithstanding that a tariff of fees is prescribed under subsection (1), the council of a municipality, a planning board, a committee of adjustment or a land division committee in processing an application may reduce the amount of or waive the requirement for the payment of a fee in respect of the application where the council, planning board or committee is satisfied that it would be unreasonable to require payment in accordance with the tariff.

Reduction or
waiver of
fees

22. Clause 69 (d) of the said Act is repealed.

23.—(1) This Act, except sections 1, 2 and 11, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Sections 1, 2 and 11 come into force on the 1st day of September, 1987.

Idem

24. The short title of this Act is the *Planning Amendment Act, 1987*.

Short title

Bill 14

An Act to amend the Planning Act, 1983

Mr. Johnston



1st Reading April 30th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. "Nuclear weapons material" is defined.

SECTION 2. This adds to the factors that the Minister must consider in carrying out his or her responsibilities under the Act the protection of the public from the possible threat to its health, social fabric and environment inherent in the production of nuclear weapons material.

SECTION 3. Self-explanatory.

SECTION 4. This requires the approval of the Minister and in the case of land in a local municipality, a zoning by-law properly passed by the Council of that municipality before a person is entitled to establish or convert a facility for or to the production of nuclear weapons material on any parcel of land in Ontario.

SECTION 5. Section 66 of the Act makes it an offence to contravene certain provisions, with maximum fines on conviction of \$20,000 for a first offence and \$10,000 for each day that a contravention continues after the first conviction. The comparable fines for a corporation are \$50,000 and \$25,000 respectively. Section 5 of the Bill makes this provision apply in respect of a person contravening section 4 of the Bill.

Bill 14**1987****An Act to amend the Planning Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Planning Act, 1983*, being chapter 1, is amended by adding thereto the following clause:

(ga) “nuclear weapons material” means any item of weaponry, munitions, equipment or specialized supplies or services intended for use primarily in the production, transportation or testing of nuclear weapons or associated equipment or in the deployment of nuclear weapons.

2. Section 2 of the said Act is amended by striking out “and” at the end of clause (h), by adding “and” at the end of clause (i) and by adding thereto the following clause:

(j) the protection of the public from the possible threat to its health, social fabric and environment inherent in the production of nuclear weapons material.

3. Section 16 of the said Act is amended by adding thereto the following subsection:

(2) Every official plan shall be deemed to include a provision that no new facilities shall be established for and no facilities shall be converted to the production of nuclear weapons material.

Deemed
provision

4. The said Act is amended by adding thereto the following section:

45a. Unless otherwise approved by the Minister and in the case of land in a local municipality also authorized by a by-law in force under section 34, no person shall establish or convert a facility for or to the production of nuclear weapons material on any parcel of land in Ontario.

Nuclear
weapons
material
production
restricted

5. Subsection 66 (1) of the said Act is amended by inserting after “45” in the first line “45a”.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Planning Amendment Act, 1987*.

Bill 15

An Act to provide for the Conversion of Technologies and Skills used in the Nuclear Weapons Industry to Civilian Uses

Mr. Johnston



1st Reading April 30th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to prepare for the termination of contracts for the production, repair, modification, storage or handling of materials used for nuclear weapons by encouraging the conversion of technologies and skills developed or used in those nuclear weapons contracts to projects that serve the civilian sector and by preparing for the employment of individuals whose jobs may be lost by the termination of those nuclear weapons contracts.

The Bill requires a company that enters into or has a nuclear weapons contract to establish a committee to assist in the preparation for conversion of the plant to civilian purposes and in the retraining of employees. The committees are to be composed of equal numbers of representatives of the company and of the employees and in some circumstances of non-voting representatives from the community.

The Bill provides for benefits to be paid to employees who lose their jobs as a result of the termination of a nuclear weapons contract.

A company that enters into or has a nuclear weapons contract is required to set up a fund to carry out the purposes of the Bill and to put in that fund annually 2.5 per cent of its gross revenue from that contract in that year. Companies and committees are also to seek additional sources of funding to carry out the purposes of the Bill.

The Bill gives the Minister discretion to assist committees and companies in preparing for and carrying out conversion plans and to assist them financially in carrying out their purposes.

The Bill makes it an offence to contravene any provision of the Act and the maximum penalty for a contravention is set at \$10,000 for persons other than corporations and at \$100,000 for corporations.

Bill 15**1987**

**An Act to provide for the Conversion
of Technologies and Skills used in the
Nuclear Weapons Industry to Civilian Uses**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“committee” means an economic conversion planning committee established under section 3;

“conversion plan” means a plan established under section 4;

“facility” means a facility where a nuclear weapons contractor produces, repairs, modifies, stores or handles nuclear weapons material in Ontario;

“fund” means a fund established under section 7;

“Minister” means the Minister of Industry, Trade and Technology;

“nuclear weapons contract” means a contract under which a corporation, agency or other establishment agrees to produce, repair, modify, store or handle nuclear weapons material in Ontario;

“nuclear weapons contractor” or “contractor” means a corporation, agency or other establishment that is engaged in or enters into a nuclear weapons contract;

“nuclear weapons material” means any item of weaponry, munitions, equipment or specialized supplies or services intended for use primarily in the production, transportation or testing of nuclear weapons or associated equipment or in the deployment of nuclear weapons.

Economic
conversion
program

2. A nuclear weapons contractor shall establish and maintain programs in accordance with this Act to prepare for the termination of its nuclear weapons contract by encouraging the conversion of technologies and skills developed or used in that contract to projects that serve the civilian sector and by preparing for the employment of individuals whose jobs may be lost by the termination of that contract.

Economic
conversion
planning
committee
established

3.—(1) A nuclear weapons contractor shall establish an economic conversion planning committee at each of its facilities forthwith upon entering into a nuclear weapons contract and shall cause it to be maintained thereafter.

Idem

(2) Where a nuclear weapons contract has been entered into before this Act comes into force, the contractor shall establish the economic conversion planning committee forthwith upon the coming into force of this Act.

Composition

(3) A committee shall be composed of not fewer than six members, with at least half of the members representing the employees at the facility and the remaining members representing the contractor.

Idem

(4) The members representing the employees at the facility shall be selected from time to time,

(a) by the union bargaining units if the employees or some of them are represented by one or more union bargaining units; or

(b) by representatives democratically elected by the employees if none of them are represented by a union bargaining unit.

Community
represent-
atives

(5) The Minister shall appoint as non-voting members of a committee not more than three persons who live in the municipality in which a facility is located and whose appointments are approved by the municipal council.

Office
space

(6) A nuclear weapons contractor shall provide free of charge to its committee whatever office space, furniture and office supplies that the committee reasonably needs to carry out its functions.

Committee
work

(7) A nuclear weapons contractor shall allow members of the committee to attend meetings and carry on their duties for the committee during the working day and any time spent for the committee shall be computed as working time for the purposes of computing remuneration and benefits.

4.—(1) It is the function of a committee and it has the power to, Functions
of
committee

- (a) develop and review a comprehensive plan,
 - (i) for converting the facility to productive activities that are acceptable to the contractor and not related to nuclear weapons purposes,
 - (ii) for providing the benefits required by this Act for those employees who lose their jobs as a result of the termination of the nuclear weapons contract, and
 - (iii) for assisting those employees who will not be employed by the contractor after the conversion in finding reasonable alternative employment;
- (b) oversee the implementation of the plan described in clause (a) when the nuclear weapons contract is terminated or completed;
- (c) ensure that the facility provides occupational retraining and re-employment counselling services, or ensure that such retraining and services are provided by an agency outside the facility, for all employees whose jobs are lost, whether temporarily or permanently, as a result of the termination or completion of a nuclear weapons contract;
- (d) assist the contractor in seeking outside sources of funding, as needed, to carry out the purposes of this Act; and
- (e) invest any money held in the fund in investments approved under the *Trustee Act*, and allocate that money in the manner provided for under this Act.

R.S.O. 1980,
c. 512

(2) In developing a conversion plan, the committee shall attempt to maximize the extent to which the personnel required for the efficient operation of the converted facility can be drawn from personnel employed by the facility before the conversion. Conversion
plans

5.—(1) If a committee is not able to agree on a conversion plan, the committee shall make a report to the Minister containing the recommendations of the representatives of the employees and of the contractor and the opinions of any representatives of the community. Where no
agreement

Minister
to decide

(2) If the Minister receives a report under subsection (1), he or she shall assist the committee, and where the Minister determines after such assistance that the committee is unable to agree on a conversion plan, the Minister shall assist the committee in whatever way he or she considers appropriate in formulating and carrying out a plan for providing the benefits required under section 6 and assisting employees in obtaining alternative employment.

Benefits
to
employees

R.S.C. 1970,
c. U-2

6. If an employee temporarily or permanently loses a job as a result of the termination of a nuclear weapons contract and the employee is eligible to receive benefits under the *Unemployment Insurance Act* (Canada), the contractor shall pay from the fund to that employee a benefit that when combined with the benefit under the *Unemployment Insurance Act* (Canada) is sufficient to ensure that the employee maintains an income at a level equal to 90 per cent of the employee's annual salary or wages immediately preceding the loss.

Money
for plan

7.—(1) A nuclear weapons contractor shall establish a fund to assist in carrying out a conversion plan and shall pay into the fund annually an amount equal to 2.5 per cent of the contractor's gross revenue from the contract for that year.

Idem

(2) A contractor, with the assistance of the committee, shall attempt to obtain whatever additional money for the fund it considers necessary to carry out the conversion plan.

Management
of fund

(3) The committee shall manage the fund.

Allocation
of money

(4) If there is not enough money in a fund to properly carry out a conversion plan, the committee shall apply what money there is in the fund first for providing the benefits to employees required under section 6, second for assisting employees who lose their jobs in retraining and in obtaining alternative employment, and third in financing any retooling of the facility required to carry out the conversion plan.

Idem

(5) If, after the assistance of the Minister, a committee is unable to agree on a conversion plan, it shall apply the money in the fund first for providing the benefits to employees required under section 6 and second for assisting employees who lose their jobs in retraining and in obtaining alternative employment.

Minister
to assist

8. The Minister may offer whatever assistance he or she considers appropriate to a committee or a contractor, including, without limiting the generality of the foregoing,

- (a) developing and coordinating information concerning,
 - (i) critical issues that should be addressed in formulating a conversion plan,
 - (ii) organizations and individual consultants who might be of assistance to committees in formulating a conversion plan,
 - (iii) the issues involved in the retraining of personnel,
 - (iv) the requirements of programs for retraining of various classes of personnel, and
 - (v) programs that are available for the retraining of various classes of personnel;
- (b) providing financial assistance by way of a grant or a loan to supplement a fund;
- (c) assisting a committee and a contractor in carrying out the conversion plan.

9.—(1) A nuclear weapons contractor shall cause its committee to report to the Minister concerning the development and implementation of its plan within one year after the committee is established and yearly thereafter.

Report to
Minister

(2) If, after receiving a report, the Minister is not satisfied with the progress of a committee, the Minister shall assist the committee in whatever way he or she considers appropriate in carrying out its functions.

Minister
to help

10.—(1) A nuclear weapons contractor shall provide to the Minister upon entering into a nuclear weapons contract and annually thereafter such information concerning the nuclear weapons contract as the Minister may require.

Report on
contract

(2) Where a nuclear weapons contract has been entered into before this Act comes into force, the contractor shall provide the information required under subsection (1) forthwith after the coming into force of this Act and annually thereafter.

Transition

11. No action shall be instituted against a member of a committee for an act done in good faith in the execution or intended execution of the person's duty or for an alleged

Protection
from
liability

neglect or default in the execution in good faith of the person's duty.

Offence

12.—(1) A person who contravenes a provision of this Act and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Idem

(2) The maximum fine that may be imposed on a corporation is \$100,000 and not as provided in subsection (1).

Commence-
ment

13. This Act comes into force on the day it receives Royal Assent.

Short title

14. The short title of this Act is the *Nuclear Weapons Economic Conversion Act, 1987*.

Bill 17

An Act to implement the
Model Law on
International Commercial
Arbitration
adopted by the
United Nations Commission
on International Trade Law

The Hon. I. Scott
Attorney General

1st Reading May 4th, 1987
2nd Reading
3rd Reading
Royal Assent

Projet de loi 17

Loi portant mise en
application de la Loi type
sur l'arbitrage commercial
international adoptée par la
Commission des Nations
Unies pour le droit
commercial international

L'honorable I. Scott
procureur général

1^{re} lecture 4 mai 1987
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The Bill implements the Model Law on International Commercial Arbitration adopted by the United Nations Commission on International Trade Law. The Model Law allows the parties to set the rules for their arbitration, but prescribes rules in the absence of any provisions to the contrary. The Model Law strictly limits the ability of the courts to intervene in an arbitration. It does, however, provide for the recognition and enforcement of foreign arbitral awards by the courts of Ontario.

The Bill includes definitions of certain terms used in the Model Law and supplements some of its provisions.

The *Foreign Arbitral Awards Act, 1986* which implements the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards is repealed since the Model Law itself serves to implement this Convention.

The Model Law is set out in the Schedule to the Bill.

NOTES EXPLICATIVES

Le projet de loi met en application la Loi type sur l'arbitrage commercial international (le «Code») adoptée par la Commission des Nations Unies pour le droit commercial international. Le Code permet aux parties d'établir les règles en vue de leur arbitrage, mais prescrit des règles dans le cas où les parties n'ont prévu aucune disposition. Le Code impose d'étroites limites au pouvoir qu'a le tribunal d'intervenir dans un arbitrage. Toutefois, il prévoit la reconnaissance et l'exécution des sentences arbitrales étrangères par les tribunaux de l'Ontario.

Le projet de loi donne la définition de certains termes ou expressions qui figurent dans le Code. En outre il complète quelques-unes de ses dispositions.

La *Loi de 1986 sur les sentences arbitrales étrangères* qui met en oeuvre la Convention de l'Organisation des Nations Unies pour la reconnaissance et l'exécution des sentences arbitrales étrangères, est abrogée, étant donné que le Code lui-même sert à mettre en oeuvre cette Convention.

Le texte du Code se trouve à l'annexe du projet de loi.

Bill 17**1987**

**An Act to implement the
Model Law on International Commercial Arbitration
adopted by the United Nations Commission
on International Trade Law**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definition

1.—(1) In this Act,

“Code”

“Model Law” means the Model Law on International Commercial Arbitration adopted by the United Nations Commission on International Trade Law on June 21, 1985, as set out in the Schedule.

Idem

(2) Except as otherwise provided, words and expressions used in this Act have the same meaning as the corresponding words and expressions in the Model Law.

Definition of
“this State”
in Model
Law

(3) In article 1 (1) of the Model Law, an “agreement in force between this State and any other State or States” means an agreement between Canada and any other country or countries that is in force in Ontario.

Idem

(4) In articles 34 (2) (b) (i) and 36 (1) (b) (i) of the Model Law, “the law of this State” means the laws of Ontario and any laws of Canada that are in force in Ontario.

Idem

(5) In article 35 (2) of the Model Law, “this State” means Canada.

Idem

(6) In articles 1 (2) and (5), 27, 34 (2) (b) (ii) and 36 (1) (b) (ii) of the Model Law, “this State” means Ontario.

Definition of
“different
States” in
Model Law

(7) In article 1 (3) of the Model Law, “different States” means different countries, and “the State” means the country.

Definition of
“competent
court” in
Model Law

(8) In the Model Law, a reference to “a competent court” means the Supreme or District Court.

Projet de loi 17

1987

Loi portant mise en application de la Loi type sur l'arbitrage commercial international adoptée par la Commission des Nations Unies pour le droit commercial international

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

- 1 (1) La définition qui suit s'applique à la présente loi.

Définition

«Code» La Loi type sur l'arbitrage commercial international adoptée par la Commission des Nations Unies pour le droit commercial international le 21 juin 1985 et dont le texte est reproduit à l'annexe.

«Model Law»
- (2) Sauf disposition contraire, les termes de la présente loi s'entendent au sens du Code.

Idem
- (3) À l'article 1 (1) du Code, l'expression «accord multilatéral ou bilatéral en vigueur pour le présent État» s'entend de l'accord multilatéral ou bilatéral auquel le Canada est partie et qui est en vigueur en Ontario.

Définition de «présent État» dans le Code
- (4) Aux articles 34 (2) b) (i) et 36 (1) b) (i) du Code, l'expression «la loi du présent État» s'entend des lois de l'Ontario ainsi que des lois du Canada qui sont en vigueur en Ontario.

Idem
- (5) À l'article 35 (2) du Code, l'expression «le présent État» s'entend du Canada.

Idem
- (6) Aux articles 1 (2) et (5), 27, 34 (2) b) (ii) et 36 (1) b) (ii) du Code, l'expression «le présent État» s'entend de l'Ontario.

Idem
- (7) À l'article 1 (3) du Code, l'expression «États différents» s'entend des pays différents, et le terme «l'État» s'entend du pays.

Définition d'«États différents» dans le Code
- (8) La mention de «tribunal compétent» dans le Code s'entend de la Cour suprême ou de la Cour de district.

Définition de «tribunal compétent» dans le Code

Model Law
in force in
Ontario

2.—(1) Subject to this Act, the Model Law is in force in Ontario.

Application

(2) The Model Law applies to international commercial arbitration agreements and awards, whether made before or after the coming into force of this Act.

Idem

(3) Despite article 1 (3) (c) of the Model Law, an arbitration conducted in Ontario between parties that all have their places of business in Ontario is not international only because the parties have expressly agreed that the subject-matter of the arbitration agreement relates to more than one country.

Conciliation
and other
proceedings

3. For the purpose of encouraging settlement of a dispute, an arbitral tribunal may, with the agreement of the parties, use mediation, conciliation or other procedures at any time during the arbitration proceedings and, with the agreement of the parties, the members of the arbitral tribunal are not disqualified from resuming their roles as arbitrators by reason of the mediation, conciliation or other procedure.

Removal of
arbitrator

4.—(1) Unless the parties otherwise agree, if an arbitrator is replaced or removed in accordance with the Model Law, any hearing held prior to the replacement or removal shall start afresh.

Idem

(2) The parties may remove an arbitrator or a substitute arbitrator at any time prior to the final award, regardless of how the arbitrator was appointed.

Article 11 (1)
of Model
Law replaced

5. Article 11 (1) of the Model Law shall be deemed to read as follows:

(1) A person of any nationality may be an arbitrator.

Rules
applicable to
substance of
dispute

6. Despite article 28 (2) of the Model Law, if the parties fail to make a designation pursuant to article 28 (1) of the Model Law, the arbitral tribunal shall apply the rules of law it considers to be appropriate given all the circumstances respecting the dispute.

Consolidation
of
proceedings

7.—(1) The Supreme or District Court, on the application of the parties to two or more arbitration proceedings, may order,

- (a) the arbitration proceedings to be consolidated, on terms it considers just;
- (b) the arbitration proceedings to be heard at the same time, or one immediately after another; or

- 2** (1) Sous réserve de la présente loi, le Code est en vigueur en Ontario. Code en vigueur en Ontario
- (2) Le Code s'applique aux conventions d'arbitrage commercial international conclues et aux sentences arbitrales rendues avant ou après l'entrée en vigueur de la présente loi. Champ d'application
- (3) Malgré l'article 1 (3) c) du Code, l'arbitrage qui a lieu en Ontario entre des parties qui toutes ont leur établissement en Ontario, n'est pas considéré comme international pour la seule raison que les parties sont convenues expressément que l'objet de la convention d'arbitrage a des liens avec plus d'un pays. Idem
- 3** Pour faciliter le règlement d'un différend, le tribunal arbitral peut, à toute étape de la procédure arbitrale, avoir recours, avec l'accord des parties, à la médiation, à la conciliation ou à tout autre mode de règlement. Il peut également, avec leur accord, reprendre son rôle d'arbitre. Conciliation et autres modes de règlement
- 4** (1) Toute procédure orale antérieure à un remplacement ou à une révocation d'arbitre conforme au Code est, sauf décision contraire des parties, à recommencer. Révocation d'arbitre
- (2) Les parties peuvent révoquer un arbitre ou un arbitre remplaçant n'importe quand avant la sentence définitive, indépendamment du mode de nomination de celui-ci. Idem
- 5** L'article 11 (1) du Code est réputé rédigé comme suit : L'article 11 (1) du Code est remplacé
- (1) Une personne peut être nommée arbitre quelle que soit sa nationalité.
- 6** Malgré l'article 28 (2) du Code, à défaut par les parties de procéder à la désignation prévue à son article 28 (1), le tribunal arbitral applique les règles de droit qu'il estime indiquées compte tenu des circonstances de l'espèce. Règles applicables au fond du différend
- 7** (1) La Cour suprême ou la Cour de district, sur demande des parties à plus d'une procédure arbitrale, peut ordonner : Réunion de procédures
- a) leur réunion, aux conditions qu'elle estime équitables;
- b) leur audition simultanée ou consécutive;

- (c) any of the arbitration proceedings to be stayed until after the determination of any other of them.

Appointment
of arbitral
tribunal

(2) Where the court orders arbitration proceedings to be consolidated pursuant to clause (1) (a) and the parties to the consolidated arbitration proceedings are in agreement as to the choice of the arbitral tribunal for that arbitration proceeding, the court shall appoint the arbitral tribunal chosen by the parties, but, if the parties cannot agree, the court may appoint the arbitral tribunal for that arbitration proceeding.

Court order
not required
for consoli-
dation

(3) Nothing in this section shall be construed as preventing the parties to two or more arbitration proceedings from agreeing to consolidate those arbitration proceedings and taking such steps as are necessary to effect that consolidation.

Stay of
proceedings

8. Where, pursuant to article 8 of the Model Law, a court refers the parties to arbitration, the proceedings of the court are stayed with respect to the matters to which the arbitration relates.

Interim
measures and
security

9. An order of the arbitral tribunal under article 17 of the Model Law for an interim measure of protection and the provision of security in connection with it is subject to the provisions of the Model Law as if it were an award.

Recognition
and
enforcement
of foreign
arbitral
awards

10. For the purposes of articles 35 and 36 of the Model Law, an arbitral award includes a commercial arbitral award made outside Canada, even if the arbitration to which it relates is not international as defined in article 1 (3) of the Model Law.

Enforcement

11.—(1) An arbitral award recognized by the court is enforceable in the same manner as a judgment or order of the court.

Idem

(2) An arbitral award recognized by the court binds the persons as between whom it was made and may be relied on by any of those persons in any legal proceeding.

Crown bound

12. This Act applies to an arbitration to which Her Majesty is a party.

Aids to
interpretation

13. For the purpose of interpreting the Model Law, recourse may be had, in addition to aids to interpretation ordinarily available under the law of Ontario, to,

(a) the Report of the United Nations Commission on International Trade Law on the work of its eighteenth session (June 3-21, 1985); and

(b) the Analytical Commentary contained in the Report of the Secretary General to the eighteenth session

- c) le sursis de telle ou telle d'entre elles jusqu'à détermination de n'importe laquelle des autres.

(2) Dans les cas où la Cour ordonne la réunion prévue à l'alinéa (1) a) et où les parties à ces procédures sont d'accord sur le choix d'un tribunal arbitral, celui-ci est nommé par la Cour. À défaut d'accord des parties, elle peut nommer un tribunal arbitral pour ces procédures.

Nomination
du tribunal
arbitral

(3) Le présent article n'a pas pour effet d'empêcher les parties à plus d'une procédure arbitrale de s'entendre sur leur réunion et de prendre toutes mesures nécessaires à cette fin.

Réunion sans
ordonnance

8 Dans le cas où, en vertu de l'article 8 du Code, un tribunal renvoie les parties à l'arbitrage, il est sursis aux procédures devant ce tribunal qui sont liées aux questions se rapportant à l'arbitrage.

Sursis de
procédures

9 Est assujettie aux dispositions du Code comme s'il s'agissait d'une sentence, l'ordonnance du tribunal arbitral prévue à l'article 17 du Code qui porte sur les mesures provisoires ou conservatoires ainsi que le versement d'une provision appropriée.

Mesures
provisoires

10 Pour l'application des articles 35 et 36 du Code, une sentence arbitrale s'entend notamment d'une sentence arbitrale commerciale rendue à l'extérieur du Canada, même si l'arbitrage auquel elle est liée n'est pas international au sens de l'article 1 (3) du Code.

Reconnais-
sance et exé-
cution des
sentences
arbitrales
étrangères

11 (1) La sentence arbitrale reconnue par le tribunal est exécutoire comme s'il s'agissait d'un jugement ou d'une ordonnance rendus par le tribunal.

Exécution

(2) La sentence arbitrale reconnue par le tribunal lie les personnes à l'égard desquelles elle a été rendue. Ces personnes peuvent invoquer la sentence dans toute action en justice.

Idem

12 La présente loi s'applique à l'arbitrage auquel Sa Majesté est partie.

Couronne liée

13 Afin d'interpréter le Code, on peut avoir recours aux documents suivants :

Guide d'inter-
prétation

- a) le Rapport de la Commission des Nations Unies pour le droit commercial international sur les travaux de sa dix-huitième session, du 3 au 21 juin 1985;
- b) le commentaire analytique figurant dans le rapport du Secrétaire général à la dix-huitième session de la

of the United Nations Commission on International Trade Law,

as published in The Canada Gazette, Part I, Vol. 120, No. 40, October 4, 1986, Supplement.

Repeal

14. The *Foreign Arbitral Awards Act, 1986*, being chapter 25, is repealed.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is the *International Commercial Arbitration Act, 1987*.

SCHEDULE

UNCITRAL MODEL LAW ON INTERNATIONAL COMMERCIAL ARBITRATION

(As adopted by the United Nations Commission on International Trade Law on 21 June, 1985)

CHAPTER I. GENERAL PROVISIONS

Article 1. Scope of application

- (1) This Law applies to international commercial arbitration, subject to any agreement in force between this State and any other State or States.
- (2) The provisions of this Law, except articles 8, 9, 35 and 36, apply only if the place of arbitration is in the territory of this State.
- (3) An arbitration is international if:
 - (a) the parties to an arbitration agreement have, at the time of the conclusion of that agreement, their places of business in different States; or
 - (b) one of the following places is situated outside the State in which the parties have their places of business:
 - (i) the place of arbitration if determined in, or pursuant to, the arbitration agreement,
 - (ii) any place where a substantial part of the obligations of the commercial relationship is to be performed or the place with which the subject-matter of the dispute is most closely connected; or
 - (c) the parties have expressly agreed that the subject-matter of the arbitration agreement relates to more than one country.
- (4) For the purposes of paragraph (3) of this article:

Commission des Nations Unies pour le droit commercial international,

tels qu'ils sont publiés dans La Gazette du Canada, Partie I, Vol. 120, n° 40, le 4 octobre 1986, Supplément. Ces documents s'ajoutent aux guides d'interprétation auxquels on a recours habituellement en vertu de la loi de l'Ontario.

14 La *Loi de 1986 sur les sentences arbitrales étrangères*, Abrogation qui constitue le chapitre 25, est abrogée.

15 La présente loi entre en vigueur le jour où elle reçoit la sanction royale. Entrée en vigueur

16 Le titre abrégé de la présente loi est *Loi de 1987 sur l'arbitrage commercial international*. Titre abrégé

ANNEXE

LOI TYPE DE LA CNUDCI SUR L'ARBITRAGE COMMERCIAL INTERNATIONAL

(telle qu'adoptée par la Commission des Nations Unies pour le droit commercial international le 21 juin 1985)

CHAPITRE PREMIER. DISPOSITIONS GÉNÉRALES

Article premier *Champ d'application*

(1) La présente loi s'applique à l'arbitrage commercial international; elle ne porte atteinte à aucun accord multilatéral ou bilatéral en vigueur pour le présent État.

(2) Les dispositions de la présente loi, à l'exception des articles 8, 9, 35 et 36, ne s'appliquent que si le lieu de l'arbitrage est situé sur le territoire du présent État.

(3) Un arbitrage est international si :

a) les parties à une convention d'arbitrage ont, au moment de la conclusion de ladite convention, leur établissement dans des États différents; ou

b) un des lieux ci-après est situé hors de l'État dans lequel les parties ont leur établissement :

(i) le lieu de l'arbitrage, s'il est stipulé dans la convention d'arbitrage ou déterminé en vertu de cette convention,

(ii) tout lieu où doit être exécutée une partie substantielle des obligations issues de la relation commerciale ou le lieu avec lequel l'objet du différend a le lien le plus étroit; ou

c) les parties sont convenues expressément que l'objet de la convention d'arbitrage a des liens avec plus d'un pays.

(4) Aux fins du paragraphe (3) du présent article :

- (a) if a party has more than one place of business, the place of business is that which has the closest relationship to the arbitration agreement;
 - (b) if a party does not have a place of business, reference is to be made to his habitual residence.
- (5) This Law shall not affect any other law of this State by virtue of which certain disputes may not be submitted to arbitration or may be submitted to arbitration only according to provisions other than those of this Law.

Article 2. *Definitions and rules of interpretation*

For the purposes of this Law:

- (a) "arbitration" means any arbitration whether or not administered by a permanent arbitral institution;
- (b) "arbitral tribunal" means a sole arbitrator or a panel of arbitrators;
- (c) "court" means a body or organ of the judicial system of a State;
- (d) where a provision of this Law, except article 28, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorize a third party, including an institution, to make that determination;
- (e) where a provision of this Law refers to the fact that the parties have agreed or that they may agree or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to in that agreement;
- (f) where a provision of this Law, other than in articles 25 (a) and 32 (2) (a), refers to a claim, it also applies to a counter-claim, and where it refers to a defence, it also applies to a defence to such counter-claim.

Article 3. *Receipt of written communications*

(1) Unless otherwise agreed by the parties:

- (a) any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence or mailing address; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence or mailing address by registered letter or any other means which provides a record of the attempt to deliver it;
- (b) the communication is deemed to have been received on the day it is so delivered.

(2) The provisions of this article do not apply to communications in court proceedings.

- a) si une partie a plus d'un établissement, l'établissement à prendre en considération est celui qui a la relation la plus étroite avec la convention d'arbitrage;
- b) si une partie n'a pas d'établissement, sa résidence habituelle en tient lieu.

(5) La présente loi ne porte atteinte à aucune autre loi du présent État en vertu de laquelle certains différends ne peuvent être soumis à l'arbitrage ou ne peuvent l'être qu'en application de dispositions autres que celles de la présente loi.

Article 2 *Définitions et règles d'interprétation*

Aux fins de la présente loi :

- a) le terme «arbitrage» désigne tout arbitrage que l'organisation en soit ou non confiée à une institution permanente d'arbitrage;
- b) l'expression «tribunal arbitral» désigne un arbitre unique ou un groupe d'arbitres;
- c) le terme «tribunal» désigne un organisme ou organe du système judiciaire d'un État;
- d) lorsqu'une disposition de la présente loi, à l'exception de l'article 28, laisse aux parties la liberté de décider d'une certaine question, cette liberté emporte le droit pour les parties d'autoriser un tiers, y compris une institution, à décider de cette question;
- e) lorsqu'une disposition de la présente loi se réfère au fait que les parties sont convenues ou peuvent convenir d'une question, ou se réfère de toute autre manière à une convention des parties, une telle convention englobe tout règlement d'arbitrage qui y est mentionné;
- f) lorsqu'une disposition de la présente loi, autre que celles de l'alinéa a) de l'article 25 et de l'alinéa (2) a) de l'article 32, se réfère à une demande, cette disposition s'applique également à une demande reconventionnelle et lorsqu'elle se réfère à des conclusions en défense, elle s'applique également à des conclusions en défense sur une demande reconventionnelle.

Article 3 *Réception de communications écrites*

(1) Sauf convention contraire des parties :

- a) toute communication écrite est réputée avoir été reçue si elle a été remise soit à la personne du destinataire, soit à son établissement, à sa résidence habituelle ou à son adresse postale; si aucun de ces lieux n'a pu être trouvé après une enquête raisonnable, une communication écrite est réputée avoir été reçue si elle a été envoyée au dernier établissement, à la dernière résidence habituelle ou à la dernière adresse postale connus du destinataire par lettre recommandée ou tout autre moyen attestant la tentative de remise;
- b) la communication est réputée avoir été reçue le jour d'une telle remise.

(2) Les dispositions du présent article ne s'appliquent pas aux communications échangées dans le cadre de procédures judiciaires.

Article 4. *Waiver of right to object*

A party who knows that any provision of this Law from which the parties may derogate or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating his objection to such non-compliance without undue delay or, if a time-limit is provided therefor, within such period of time, shall be deemed to have waived his right to object.

Article 5. *Extent of court intervention*

In matters governed by this Law, no court shall intervene except where so provided in this Law.

Article 6. *Court or other authority for certain functions of arbitration assistance and supervision*

The functions referred to in articles 11 (3), 11 (4), 13 (3), 14, 16 (3) and 34 (2) shall be performed by the Supreme or District Court.

CHAPTER II. ARBITRATION AGREEMENT**Article 7.** *Definition and form of arbitration agreement*

(1) "Arbitration agreement" is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

(2) The arbitration agreement shall be in writing. An agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement, or in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by another. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the contract is in writing and the reference is such as to make that clause part of the contract.

Article 8. *Arbitration agreement and substantive claim before court*

(1) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed.

(2) Where an action referred to in paragraph (1) of this article has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the court.

Article 9. *Arbitration agreement and interim measures by court*

It is not incompatible with an arbitration agreement for a party to request, before or during arbitral proceedings, from a court an interim measure of protection and for a court to grant such measure.

Article 4 *Renonciation au droit de faire objection*

Est réputée avoir renoncé à son droit de faire objection toute partie qui, bien qu'elle sache que l'une des dispositions de la présente loi auxquelles les parties peuvent déroger, ou toute condition énoncée dans la convention d'arbitrage, n'a pas été respectée, poursuit néanmoins l'arbitrage sans formuler d'objection promptement ou, s'il est prévu un délai à cet effet, dans ledit délai.

Article 5 *Domaine de l'intervention des tribunaux*

Pour toutes les questions régies par la présente loi, les tribunaux ne peuvent intervenir que dans les cas où celle-ci le prévoit.

Article 6 *Tribunal ou autre autorité chargé de certaines fonctions d'assistance et de contrôle dans le cadre de l'arbitrage*

Les fonctions mentionnées aux articles 11 (3), 11 (4), 13 (3), 14, 16 (3) et 34 (2) sont confiées à la Cour suprême ou à la Cour de district.

CHAPITRE II. CONVENTION D'ARBITRAGE**Article 7** *Définition et forme de la convention d'arbitrage*

(1) Une «convention d'arbitrage» est une convention par laquelle les parties décident de soumettre à l'arbitrage, tous les différends ou certains des différends qui se sont élevés ou pourraient s'élever entre elles au sujet d'un rapport de droit déterminé, contractuel ou non contractuel. Une convention d'arbitrage peut prendre la forme d'une clause compromissoire dans un contrat ou d'une convention séparée.

(2) La convention d'arbitrage doit se présenter sous forme écrite. Une convention est sous forme écrite si elle est consignée dans un document signé par les parties ou dans un échange de lettres, de communications télex, de télégrammes ou de tout autre moyen de télécommunications qui en atteste l'existence, ou encore dans l'échange d'une conclusion en demande et d'une conclusion en réponse dans lequel l'existence d'une telle convention est alléguée par une partie et n'est pas contestée par l'autre. La référence dans un contrat à un document contenant une clause compromissoire vaut convention d'arbitrage, à condition que ledit contrat soit sous forme écrite et que la référence soit telle qu'elle fasse de la clause une partie du contrat.

Article 8 *Convention d'arbitrage et actions intentées quant au fond devant un tribunal*

(1) Le tribunal saisi d'un différend sur une question faisant l'objet d'une convention d'arbitrage renverra les parties à l'arbitrage si l'une d'entre elles le demande au plus tard lorsqu'elle soumet ses premières conclusions quant au fond du différend, à moins qu'il ne constate que ladite convention est caduque, inopérante ou non susceptible d'être exécutée.

(2) Lorsque le tribunal est saisi d'une action visée au paragraphe (1) du présent article, la procédure arbitrale peut néanmoins être engagée ou poursuivie et une sentence peut être rendue en attendant que le tribunal ait statué.

Article 9 *Convention d'arbitrage et mesures provisoires prises par un tribunal*

La demande par une partie à un tribunal, avant ou pendant la procédure arbitrale, de mesures provisoires ou conservatoires et l'octroi de telles mesures par un tribunal ne sont pas incompatibles avec une convention d'arbitrage.

CHAPTER III. COMPOSITION OF ARBITRAL TRIBUNAL

Article 10. *Number of arbitrators*

- (1) The parties are free to determine the number of arbitrators.
- (2) Failing such determination, the number of arbitrators shall be three.

Article 11. *Appointment of arbitrators*

- (1) No person shall be precluded by reason of his nationality from acting as an arbitrator, unless otherwise agreed by the parties.
- (2) The parties are free to agree on a procedure of appointing the arbitrator or arbitrators, subject to the provisions of paragraphs (4) and (5) of this article.
- (3) Failing such agreement,
 - (a) in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of a party, by the court or other authority specified in article 6;
 - (b) in an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, he shall be appointed, upon request of a party, by the court or other authority specified in article 6.
- (4) Where, under an appointment procedure agreed upon by the parties:
 - (a) a party fails to act as required under such procedure; or
 - (b) the parties, or two arbitrators, are unable to reach an agreement expected of them under such procedure; or
 - (c) a third party, including an institution, fails to perform any function entrusted to it under such procedure,

any party may request the court or other authority specified in article 6 to take the necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment.

- (5) A decision on a matter entrusted by paragraph (3) or (4) of this article to the court or other authority specified in article 6 shall be subject to no appeal. The court or other authority, in appointing an arbitrator, shall have due regard to any qualifications required of the arbitrator by the agreement of the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and, in the case of a sole or third arbitrator, shall take into account as well the advisability of appointing an arbitrator of a nationality other than those of the parties.

CHAPITRE III. COMPOSITION DU TRIBUNAL ARBITRAL

Article 10 *Nombre d'arbitres*

- (1) Les parties sont libres de convenir du nombre d'arbitres.
- (2) Faute d'une telle convention, il est nommé trois arbitres.

Article 11 *Nomination de l'arbitre ou des arbitres*

- (1) Nul ne peut, en raison de sa nationalité, être empêché d'exercer des fonctions d'arbitre, sauf convention contraire des parties.
- (2) Les parties sont libres de convenir de la procédure de nomination de l'arbitre ou des arbitres, sans préjudice des dispositions des paragraphes (4) et (5) du présent article.
- (3) Faute d'une telle convention :

- a) en cas d'arbitrage par trois arbitres, chaque partie nomme un arbitre et les deux autres arbitres ainsi nommés choisissent le troisième arbitre; si une partie ne nomme pas un arbitre dans un délai de trente jours à compter de la réception d'une demande à cette fin émanant de l'autre partie, ou si les deux arbitres ne s'accordent pas sur le choix du troisième arbitre dans un délai de trente jours à compter de leur désignation, la nomination est effectuée, sur la demande d'une partie, par le tribunal ou autre autorité visé à l'article 6;
- b) en cas d'arbitrage par un arbitre unique, si les parties ne peuvent s'accorder sur le choix de l'arbitre, celui-ci est nommé, sur la demande d'une partie, par le tribunal ou autre autorité visé à l'article 6.

- (4) Lorsque, durant une procédure de nomination convenue par les parties :

- a) une partie n'agit pas conformément à ladite procédure; ou
- b) les parties, ou deux arbitres, ne peuvent parvenir à un accord conformément à ladite procédure; ou
- c) un tiers, y compris une institution, ne s'acquitte pas d'une fonction qui lui est conférée dans ladite procédure,

l'une ou l'autre partie peut prier le tribunal ou autre autorité visé à l'article 6 de prendre la mesure voulue, à moins que la convention relative à la procédure de nomination ne stipule d'autres moyens d'assurer cette nomination.

- (5) La décision sur une question confiée au tribunal ou autre autorité visé à l'article 6, conformément aux paragraphes (3) et (4) du présent article, n'est pas susceptible de recours. Lorsqu'il nomme un arbitre, le tribunal tient compte de toutes les qualifications requises de l'arbitre par convention des parties et de toutes considérations propres à garantir la nomination d'un arbitre indépendant et impartial et, lorsqu'il nomme un arbitre unique ou un troisième arbitre, il tient également compte du fait qu'il peut être souhaitable de nommer un arbitre d'une nationalité différente de celle des parties.

Article 12. *Grounds for challenge*

(1) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances to the parties unless they have already been informed of them by him.

(2) An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his impartiality or independence, or if he does not possess qualifications agreed to by the parties. A party may challenge an arbitrator appointed by him, or in whose appointment he has participated, only for reasons of which he becomes aware after the appointment has been made.

Article 13. *Challenge procedure*

(1) The parties are free to agree on a procedure for challenging an arbitrator, subject to the provisions of paragraph (3) of this article.

(2) Failing such agreement, a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstance referred to in article 12 (2), send a written statement of the reasons for the challenge to the arbitral tribunal. Unless the challenged arbitrator withdraws from his office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

(3) If a challenge under any procedure agreed upon by the parties or under the procedure of paragraph (2) of this article is not successful, the challenging party may request, within thirty days after having received notice of the decision rejecting the challenge, the court or other authority specified in article 6 to decide on the challenge, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.

Article 14. *Failure or impossibility to act*

(1) If an arbitrator becomes *de jure* or *de facto* unable to perform his functions or for other reasons fails to act without undue delay, his mandate terminates if he withdraws from his office or if the parties agree on the termination. Otherwise, if a controversy remains concerning any of these grounds, any party may request the court or other authority specified in article 6 to decide on the termination of the mandate, which decision shall be subject to no appeal.

(2) If, under this article or article 13 (2), an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of any ground referred to in this article or article 12 (2).

Article 15. *Appointment of substitute arbitrator*

Where the mandate of an arbitrator terminates under article 13 or 14 or because of his withdrawal from office for any other reason or because of the revocation of his mandate by agreement of the parties or in any other case of termination of his mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

Article 12 *Motifs de récusation*

(1) Lorsqu'une personne est pressentie en vue de sa nomination éventuelle en qualité d'arbitre, elle signale toutes circonstances de nature à soulever des doutes légitimes sur son impartialité ou sur son indépendance. À partir de la date de sa nomination et durant toute la procédure arbitrale, l'arbitre signale sans tarder de telles circonstances aux parties, à moins qu'il ne l'ait déjà fait.

(2) Un arbitre ne peut être récusé que s'il existe des circonstances de nature à soulever des doutes légitimes sur son impartialité ou son indépendance, ou si celui-ci ne possède pas les qualifications convenues par les parties. Une partie ne peut récuser l'arbitre qu'elle a nommé ou à la nomination duquel elle a participé que pour une cause dont elle a eu connaissance après cette nomination.

Article 13 *Procédure de récusation*

(1) Sous réserve des dispositions du paragraphe (3) du présent article, les parties sont libres de convenir de la procédure de récusation de l'arbitre.

(2) Faute d'un tel accord, la partie qui a l'intention de récuser un arbitre expose par écrit les motifs de la récusation au tribunal arbitral, dans un délai de quinze jours à compter de la date à laquelle elle a eu connaissance de la constitution du tribunal arbitral ou de la date à laquelle elle a eu connaissance des circonstances visées à l'article 12 (2). Si l'arbitre récusé ne se déporte pas ou que l'autre partie n'accepte pas la récusation, le tribunal arbitral se prononce sur la récusation.

(3) Si la récusation ne peut être obtenue selon la procédure convenue par les parties ou en application du paragraphe (2) du présent article, la partie récusante peut, dans un délai de trente jours après avoir eu communication de la décision rejetant la récusation, prier le tribunal ou autre autorité visé à l'article 6 de prendre sur la récusation une décision qui ne sera pas susceptible de recours; dans l'attente de cette décision, le tribunal arbitral y compris l'arbitre récusé, peut poursuivre la procédure arbitrale et rendre une sentence.

Article 14 *Carence ou incapacité d'un arbitre*

(1) Lorsqu'un arbitre se trouve dans l'impossibilité de droit ou de fait de remplir sa mission ou, pour d'autres raisons, ne s'acquitte pas de ses fonctions dans un délai raisonnable, son mandat prend fin s'il se déporte ou si les parties conviennent d'y mettre fin. Au cas où il subsiste un désaccord quant à l'un quelconque de ces motifs, l'une ou l'autre partie peut prier le tribunal ou autre autorité visé à l'article 6 de prendre une décision, qui ne sera pas susceptible de recours, sur la cessation du mandat.

(2) Le fait qu'en application du présent article ou de l'article 13 (2), un arbitre se déporte ou qu'une partie accepte que le mandat d'un arbitre prenne fin n'implique pas reconnaissance des motifs mentionnés à l'article 12 (2) ou dans le présent article.

Article 15 *Nomination d'un arbitre remplaçant*

Lorsqu'il est mis fin au mandat d'un arbitre conformément à l'article 13 ou 14, ou lorsque celui-ci se déporte pour toute autre raison, ou lorsque son mandat est révoqué par accord des parties ou dans tout autre cas où il est mis fin à son mandat, un arbitre remplaçant est nommé conformément aux règles qui étaient applicables à la nomination de l'arbitre remplacé.

CHAPTER IV. JURISDICTION OF ARBITRAL TRIBUNAL

Article 16. *Competence of arbitral tribunal to rule on its jurisdiction*

(1) The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.

(2) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defence. A party is not precluded from raising such a plea by the fact that he has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.

(3) The arbitral tribunal may rule on a plea referred to in paragraph (2) of this article either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, any party may request, within thirty days after having received notice of that ruling, the court specified in article 6 to decide the matter, which decision shall be subject to no appeal; while such a request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award.

Article 17. *Power of arbitral tribunal to order interim measures*

Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject-matter of the dispute. The arbitral tribunal may require any party to provide appropriate security in connection with such measure.

CHAPTER V. CONDUCT OF ARBITRAL PROCEEDINGS

Article 18. *Equal treatment of parties*

The parties shall be treated with equality and each party shall be given a full opportunity of presenting his case.

Article 19. *Determination of rules of procedure*

(1) Subject to the provisions of this Law, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.

(2) Failing such agreement, the arbitral tribunal may, subject to the provisions of this Law, conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to determine the admissibility, relevance, materiality and weight of any evidence.

CHAPITRE IV. COMPÉTENCE DU TRIBUNAL ARBITRAL

Article 16 *Compétence du tribunal arbitral pour statuer sur sa propre compétence*

(1) Le tribunal arbitral peut statuer sur sa propre compétence, y compris sur toute exception relative à l'existence ou à la validité de la convention d'arbitrage. À cette fin, une clause compromissoire faisant partie d'un contrat est considérée comme une convention distincte des autres clauses du contrat. La constatation de nullité du contrat par le tribunal arbitral n'entraîne pas de plein droit la nullité de la clause compromissoire.

(2) L'exception d'incompétence du tribunal arbitral peut être soulevée au plus tard lors du dépôt des conclusions en défense. Le fait pour une partie d'avoir désigné un arbitre ou d'avoir participé à sa désignation ne la prive pas du droit de soulever cette exception. L'exception prise de ce que la question litigieuse excéderait les pouvoirs du tribunal arbitral est soulevée dès que la question alléguée comme excédant ses pouvoirs est soulevée pendant la procédure arbitrale. Le tribunal arbitral peut, dans l'un ou l'autre cas, admettre une exception soulevée après le délai prévu, s'il estime que le retard est dû à une cause valable.

(3) Le tribunal arbitral peut statuer sur l'exception visée au paragraphe (2) du présent article soit en la traitant comme une question préalable, soit dans sa sentence sur le fond. Si le tribunal arbitral détermine, à titre de question préalable, qu'il est compétent, l'une ou l'autre partie peut, dans un délai de trente jours après avoir été avisée de cette décision, demander au tribunal visé à l'article 6 de rendre une décision sur ce point, laquelle ne sera pas susceptible de recours; en attendant qu'il soit statué sur cette demande, le tribunal arbitral est libre de poursuivre la procédure arbitrale et de rendre une sentence.

Article 17 *Pouvoir du tribunal arbitral d'ordonner des mesures provisoires*

Sauf convention contraire des parties, le tribunal arbitral peut, à la demande d'une partie, ordonner à toute partie de prendre toute mesure provisoire ou conservatoire qu'il juge nécessaire en ce qui concerne l'objet du différend. Le tribunal arbitral peut, à ce titre, exiger de toute partie le versement d'une provision appropriée.

CHAPITRE V. CONDUITE DE LA PROCÉDURE ARBITRALE

Article 18 *Égalité de traitement des parties*

Les parties doivent être traitées sur un pied d'égalité et chaque partie doit avoir toute possibilité de faire valoir ses droits.

Article 19 *Détermination des règles de procédure*

(1) Sous réserve des dispositions de la présente loi, les parties sont libres de convenir de la procédure à suivre par le tribunal arbitral.

(2) Faute d'une telle convention, le tribunal arbitral peut, sous réserve des dispositions de la présente loi, procéder à l'arbitrage comme il le juge approprié. Les pouvoirs conférés au tribunal arbitral comprennent celui de juger de la recevabilité, de la pertinence et de l'importance de toute preuve produite.

Article 20. *Place of arbitration*

(1) The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(2) Notwithstanding the provisions of paragraph (1) of this article, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

Article 21. *Commencement of arbitral proceedings*

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

Article 22. *Language*

(1) The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

(2) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Article 23. *Statements of claim and defence*

(1) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defence in respect of these particulars, unless the parties have otherwise agreed as to the required elements of such statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

(2) Unless otherwise agreed by the parties, either party may amend or supplement his claim or defence during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it.

Article 24. *Hearings and written proceedings*

(1) Subject to any contrary agreement by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party.

(2) The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of goods, other property or documents.

(3) All statements, documents or other information supplied to the arbitral tribunal by one party shall be communicated to the other party. Also any

Article 20 *Lieu de l'arbitrage*

(1) Les parties sont libres de décider du lieu de l'arbitrage. Faute d'une telle décision, ce lieu est fixé par le tribunal arbitral, compte tenu des circonstances de l'affaire, y compris les convenances des parties.

(2) Nonobstant les dispositions du paragraphe (1) du présent article, le tribunal arbitral peut, sauf convention contraire des parties, se réunir en tout lieu qu'il jugera approprié pour l'organisation de consultations entre ses membres, l'audition des témoins, des experts ou des parties, ou pour l'inspection de marchandises, d'autres biens ou de pièces.

Article 21 *Début de la procédure arbitrale*

Sauf convention contraire des parties, la procédure arbitrale concernant un différend déterminé débute à la date à laquelle la demande de soumission de ce différend à l'arbitrage est reçue par le défendeur.

Article 22 *Langue*

(1) Les parties sont libres de convenir de la langue ou des langues à utiliser dans la procédure arbitrale. Faute d'un tel accord, le tribunal arbitral décide de la langue ou des langues à utiliser dans la procédure. Cet accord ou cette décision, à moins qu'il n'en soit convenu ou décidé autrement, s'applique à toute déclaration écrite d'une partie, à toute procédure orale et à toute sentence, décision ou autre communication du tribunal arbitral.

(2) Le tribunal arbitral peut ordonner que toute pièce soit accompagnée d'une traduction dans la langue ou les langues convenues par les parties ou choisies par le tribunal arbitral.

Article 23 *Conclusions en demande et en défense*

(1) Dans le délai convenu par les parties ou fixé par le tribunal arbitral, le demandeur énonce les faits au soutien de sa demande, les points litigieux et l'objet de la demande et le défendeur énonce ses défenses à propos de ces questions, à moins que les parties ne soient autrement convenues des indications devant figurer dans les conclusions. Les parties peuvent accompagner leurs conclusions de toutes pièces qu'elles jugeront pertinentes ou y mentionner les pièces ou autres moyens de preuve qu'elles produiront.

(2) Sauf convention contraire des parties, l'une ou l'autre partie peut modifier ou compléter sa demande ou ses défenses, au cours de la procédure arbitrale, à moins que le tribunal arbitral considère ne pas devoir autoriser un tel amendement en raison du retard avec lequel il est formulé.

Article 24 *Procédure orale et procédure écrite*

(1) Sauf convention contraire des parties, le tribunal arbitral décide si la procédure doit comporter des phases orales pour la production de preuves ou pour l'exposé oral des arguments, ou si elle se déroulera sur pièces. Cependant, à moins que les parties n'aient convenu qu'il n'y aura pas de procédure orale, le tribunal arbitral organise une telle procédure à un stade approprié de la procédure arbitrale, si une partie lui en fait la demande.

(2) Les parties recevront suffisamment longtemps à l'avance notification de toutes audiences et de toutes réunions du tribunal arbitral tenues aux fins de l'inspection de marchandises, d'autres biens ou de pièces.

(3) Toutes les conclusions, pièces ou informations que l'une des parties fournit au tribunal arbitral doivent être communiquées à l'autre partie. Tout rapport d'expert ou document présenté en tant que preuve sur lequel le tri-

expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

Article 25. *Default of a party*

Unless otherwise agreed by the parties, if, without showing sufficient cause,

- (a) the claimant fails to communicate his statement of claim in accordance with article 23 (1), the arbitral tribunal shall terminate the proceedings;
- (b) the respondent fails to communicate his statement of defence in accordance with article 23 (1), the arbitral tribunal shall continue the proceedings without treating such failure in itself as an admission of the claimant's allegations;
- (c) any party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.

Article 26. *Expert appointed by arbitral tribunal*

(1) Unless otherwise agreed by the parties, the arbitral tribunal,

- (a) may appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal;
- (b) may require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.

(2) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in a hearing where the parties have the opportunity to put questions to him and to present expert witnesses in order to testify on the points at issue.

Article 27. *Court assistance in taking evidence*

The arbitral tribunal or a party with the approval of the arbitral tribunal may request from a competent court of this State assistance in taking evidence. The court may execute the request within its competence and according to its rules on taking evidence.

CHAPTER VI. MAKING OF AWARD AND TERMINATION OF PROCEEDINGS

Article 28. *Rules applicable to substance of dispute*

(1) The arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute. Any designation of the law or legal system of a given State shall be construed, unless otherwise expressed, as directly referring to the substantive law of that State and not to its conflict of laws rules.

(2) Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

(3) The arbitral tribunal shall decide *ex aequo et bono* or as *amiable compositeur* only if the parties have expressly authorized it to do so.

bunal pourrait s'appuyer pour statuer doit également être communiqué aux parties.

Article 25 *Défaut d'une partie*

Sauf convention contraire des parties, si, sans invoquer d'empêchement légitime :

- a) le demandeur ne présente pas sa demande conformément à l'article 23 (1), le tribunal arbitral met fin à la procédure arbitrale;
- b) le défendeur ne présente pas ses défenses conformément à l'article 23 (1), le tribunal arbitral poursuit la procédure arbitrale sans considérer ce défaut en soi comme une acceptation des allégations du demandeur;
- c) l'une des parties omet de comparaître à l'audience ou de produire des documents, le tribunal arbitral peut poursuivre la procédure et statuer sur la base des éléments de preuve dont il dispose.

Article 26 *Expert nommé par le tribunal arbitral*

(1) Sauf convention contraire des parties, le tribunal arbitral :

- a) peut nommer un ou plusieurs experts chargés de lui faire rapport sur les points précis qu'il déterminera;
- b) peut demander à une partie de fournir à l'expert tous renseignements appropriés ou de lui soumettre ou de lui rendre accessibles, aux fins d'examen, toutes pièces ou toutes marchandises ou autres biens pertinents.

(2) Sauf convention contraire des parties, si une partie en fait la demande ou si le tribunal arbitral le juge nécessaire, l'expert, après présentation de son rapport écrit ou oral, participe à une audience à laquelle les parties peuvent l'interroger et faire venir en qualité de témoins des experts qui déposent sur les questions litigieuses.

Article 27 *Assistance des tribunaux pour l'obtention de preuves*

Le tribunal arbitral, ou une partie avec l'approbation du tribunal arbitral, peut demander à un tribunal compétent du présent État une assistance pour l'obtention de preuves. Le tribunal peut satisfaire à cette demande, dans les limites de sa compétence et conformément aux règles relatives à l'obtention de preuves.

CHAPITRE VI. PRONONCÉ DE LA SENTENCE ET CLÔTURE DE LA PROCÉDURE

Article 28 *Règles applicables au fond du différend*

(1) Le tribunal arbitral tranche le différend conformément aux règles de droit choisies par les parties comme étant applicables au fond du différend. Toute désignation de la loi ou du système juridique d'un État donné est considérée, sauf indication contraire expresse, comme désignant directement les règles juridiques de fond de cet État et non ses règles de conflit de lois.

(2) À défaut d'une telle désignation par les parties, le tribunal arbitral applique la loi désignée par la règle de conflit de lois qu'il juge applicable en l'espèce.

(3) Le tribunal arbitral statue *ex aequo et bono* ou en qualité d'amiable compositeur uniquement si les parties l'y ont expressément autorisé.

(4) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

Article 29. *Decision making by panel of arbitrators*

In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members. However, questions of procedure may be decided by a presiding arbitrator, if so authorized by the parties or all members of the arbitral tribunal.

Article 30. *Settlement*

(1) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

(2) An award on agreed terms shall be made in accordance with the provisions of article 31 and shall state that it is an award. Such an award has the same status and effect as any other award on the merits of the case.

Article 31. *Form and contents of award*

(1) The award shall be made in writing and shall be signed by the arbitrator or arbitrators. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated.

(2) The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms under article 30.

(3) The award shall state its date and the place of arbitration as determined in accordance with article 20 (1). The award shall be deemed to have been made at that place.

(4) After the award is made, a copy signed by the arbitrators in accordance with paragraph (1) of this article shall be delivered to each party.

Article 32. *Termination of proceedings*

(1) The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal in accordance with paragraph (2) of this article.

(2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when:

(a) the claimant withdraws his claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on his part in obtaining a final settlement of the dispute;

(b) the parties agree on the termination of the proceedings;

(c) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

(3) The mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings, subject to the provisions of articles 33 and 34 (4).

(4) Dans tous les cas, le tribunal arbitral décide conformément aux stipulations du contrat et tient compte des usages du commerce applicables à la transaction.

Article 29 *Prise de décisions par plusieurs arbitres*

Dans une procédure arbitrale comportant plus d'un arbitre, toute décision du tribunal arbitral est, sauf convention contraire des parties, prise à la majorité de tous ses membres. Toutefois, les questions de procédure peuvent être tranchées par un arbitre-président, si ce dernier y est autorisé par les parties ou par tous les membres du tribunal arbitral.

Article 30 *Règlement par accord des parties*

(1) Si, durant la procédure arbitrale, les parties s'entendent pour régler le différend, le tribunal arbitral met fin à la procédure arbitrale et, si les parties lui en font la demande et s'il n'y voit pas d'objection, constate le fait par une sentence arbitrale rendue par accord des parties.

(2) La sentence d'accord des parties est rendue conformément aux dispositions de l'article 31 et mentionne le fait qu'il s'agit d'une sentence. Une telle sentence a le même statut et le même effet que toute autre sentence prononcée sur le fond de l'affaire.

Article 31 *Forme et contenu de la sentence*

(1) La sentence est rendue par écrit et signée par l'arbitre ou les arbitres. Dans la procédure arbitrale comprenant plusieurs arbitres, les signatures de la majorité des membres du tribunal arbitral suffisent, pourvu que soit mentionnée la raison de l'omission des autres.

(2) La sentence est motivée, sauf si les parties sont convenues que tel ne doit pas être le cas ou s'il s'agit d'une sentence rendue par accord des parties conformément à l'article 30.

(3) La sentence mentionne la date à laquelle elle est rendue, ainsi que le lieu de l'arbitrage déterminé conformément à l'article 20 (1). La sentence est réputée avoir été rendue audit lieu.

(4) Après le prononcé de la sentence, une copie signée par l'arbitre ou les arbitres conformément au paragraphe (1) du présent article en est remise à chacune des parties.

Article 32 *Clôture de la procédure*

(1) La procédure arbitrale est close par le prononcé de la sentence définitive ou par une ordonnance de clôture rendue par le tribunal arbitral conformément au paragraphe (2) du présent article.

(2) Le tribunal arbitral ordonne la clôture de la procédure arbitrale lorsque :

- a) le demandeur retire sa demande, à moins que le défendeur y fasse objection et que le tribunal arbitral reconnaisse qu'il a légitimement intérêt à ce que le différend soit définitivement réglé;
- b) les parties conviennent de clore la procédure;
- c) le tribunal arbitral constate que la poursuite de la procédure est, pour toute autre raison, devenue superflue ou impossible.

(3) Le mandat du tribunal arbitral prend fin avec la clôture de la procédure arbitrale, sous réserve des dispositions de l'article 33 et du paragraphe (4) de l'article 34.

Article 33. *Correction and interpretation of award: additional award*

(1) Within thirty days of receipt of the award, unless another period of time has been agreed upon by the parties:

- (a) a party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature;
- (b) if so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

If the arbitral tribunal considers the request to be justified, it shall make the correction or give the interpretation within thirty days of receipt of the request. The interpretation shall form part of the award.

(2) The arbitral tribunal may correct any error of the type referred to in paragraph (1) (a) of this article on its own initiative within thirty days of the date of the award.

(3) Unless otherwise agreed by the parties, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within sixty days.

(4) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, interpretation or an additional award under paragraph (1) or (3) of this article.

(5) The provisions of article 31 shall apply to a correction or interpretation of the award or to an additional award.

CHAPTER VII. RECOURSE AGAINST AWARD

Article 34. *Application for setting aside as exclusive recourse against arbitral award*

(1) Recourse to a court against an arbitral award may be made only by an application for setting aside in accordance with paragraphs (2) and (3) of this article.

(2) An arbitral award may be set aside by the court specified in article 6 only if:

- (a) the party making the application furnishes proof that:
 - (i) a party to the arbitration agreement referred to in article 7 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of this State, or
 - (ii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case, or
 - (iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to

Article 33 *Rectification et interprétation de la sentence et sentence additionnelle*

(1) Dans les trente jours qui suivent la réception de la sentence, à moins que les parties ne soient convenues d'un autre délai :

- a) une des parties peut, moyennant notification à l'autre, demander au tribunal arbitral de rectifier dans le texte de la sentence toute erreur de calcul, toute erreur matérielle ou typographique ou toute erreur de même nature;
- b) si les parties en sont convenues, une partie peut, moyennant notification à l'autre, demander au tribunal arbitral de donner une interprétation d'un point ou passage précis de la sentence.

Si le tribunal arbitral considère que la demande est justifiée, il fait la rectification ou donne l'interprétation dans les trente jours qui suivent la réception de la demande. L'interprétation fait partie intégrante de la sentence.

(2) Le tribunal arbitral peut, de son propre chef, rectifier toute erreur du type visé à l'alinéa a) du paragraphe (1) du présent article dans les trente jours qui suivent la date de la sentence.

(3) Sauf convention contraire des parties, l'une des parties peut, moyennant notification à l'autre, demander au tribunal arbitral, dans les trente jours qui suivent la réception de la sentence, de rendre une sentence additionnelle sur des chefs de demande exposés au cours de la procédure arbitrale mais omis dans la sentence. S'il juge la demande justifiée, le tribunal arbitral complète sa sentence dans les soixante jours.

(4) Le tribunal arbitral peut prolonger, si besoin est, le délai dont il dispose pour rectifier, interpréter ou compléter la sentence en vertu du paragraphe (1) ou (3) du présent article.

(5) Les dispositions de l'article 31 s'appliquent à la rectification ou l'interprétation de la sentence ou à la sentence additionnelle.

CHAPITRE VII. RECOURS CONTRE LA SENTENCE

Article 34 *La demande d'annulation comme recours exclusif contre la sentence arbitrale*

(1) Le recours formé devant un tribunal contre une sentence arbitrale ne peut prendre la forme que d'une demande d'annulation conformément aux paragraphes (2) et (3) du présent article.

(2) La sentence arbitrale ne peut être annulée par le tribunal visé à l'article 6 que si :

- a) la partie en faisant la demande apporte la preuve :
 - (i) qu'une partie à la convention d'arbitrage visée à l'article 7 était frappée d'une incapacité; ou que ladite convention n'est pas valable en vertu de la loi à laquelle les parties l'ont subordonnée ou, à défaut d'une indication à cet égard, en vertu de la loi du présent État, ou
 - (ii) qu'elle n'a pas été dûment informée de la nomination d'un arbitre ou de la procédure arbitrale, ou qu'il lui a été impossible pour une autre raison de faire valoir ses droits, ou
 - (iii) que la sentence porte sur un différend non visé dans le compromis ou n'entrant pas dans les prévisions de la clause compromissoire, ou qu'elle contient des décisions qui dépassent les termes du compromis ou de la clause compromissoire, étant entendu

arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside, or

- (iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Law from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Law; or

(b) the court finds that:

- (i) the subject-matter of the dispute is not capable of settlement by arbitration under the law of this State, or
- (ii) the award is in conflict with the public policy of this State.

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the award or, if a request had been made under article 33, from the date on which that request had been disposed of by the arbitral tribunal.

(4) The court, when asked to set aside an award, may, where appropriate and so requested by a party, suspend the setting aside proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside.

CHAPTER VIII. RECOGNITION AND ENFORCEMENT OF AWARDS

Article 35. Recognition and enforcement

(1) An arbitral award, irrespective of the country in which it was made, shall be recognized as binding and, upon application in writing to the competent court, shall be enforced subject to the provisions of this article and of article 36.

(2) The party relying on an award or applying for its enforcement shall supply the duly authenticated original award or a duly certified copy thereof, and the original arbitration agreement referred to in article 7 or a duly certified copy thereof. If the award or agreement is not made in an official language of this State, the party shall supply a duly certified translation thereof into such language.

Article 36. Grounds for refusing recognition or enforcement

(1) Recognition or enforcement of an arbitral award, irrespective of the country in which it was made, may be refused only:

- (a) at the request of the party against whom it is invoked, if that party furnishes to the competent court where recognition or enforcement is sought proof that:
 - (i) a party to the arbitration agreement referred to in article 7 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made, or

toutefois que, si les dispositions de la sentence qui ont trait à des questions soumises à l'arbitrage peuvent être dissociées de celles qui ont trait à des questions non soumises à l'arbitrage, seule la partie de la sentence contenant des décisions sur les questions non soumises à l'arbitrage pourra être annulé, ou

- (iv) que la constitution du tribunal arbitral, ou la procédure arbitrale, n'a pas été conforme à la convention des parties, à condition que cette convention ne soit pas contraire à une disposition de la
- présente loi à laquelle les parties ne peuvent déroger, ou, à défaut d'une telle convention, qu'elle n'a pas été conforme à la présente loi; ou

b) le tribunal constate :

- (i) que l'objet du différend n'est pas susceptible d'être réglé par arbitrage conformément à la loi du présent État, ou
- (ii) que la sentence est contraire à l'ordre public du présent État.

(3) Une demande d'annulation ne peut être présentée après l'expiration d'un délai de trois mois à compter de la date à laquelle la partie présentant cette demande a reçu communication de la sentence ou, si une demande a été faite en vertu de l'article 33, à compter de la date à laquelle le tribunal arbitral a pris une décision sur cette demande.

(4) Lorsqu'il est prié d'annuler une sentence, le tribunal peut, le cas échéant et à la demande d'une partie, suspendre la procédure d'annulation pendant une période dont il fixe la durée afin de donner au tribunal arbitral la possibilité de reprendre la procédure arbitrale ou de prendre toute autre mesure que ce dernier juge susceptible d'éliminer les motifs d'annulation.

CHAPITRE VIII. RECONNAISSANCE ET EXÉCUTION DES SENTENCES

Article 35 *Reconnaissance et exécution*

(1) La sentence arbitrale, quel que soit le pays où elle a été rendue, est reconnue comme ayant force obligatoire et, sur requête adressée par écrit au tribunal compétent, est exécutée sous réserve des dispositions du présent article et de l'article 36.

(2) La partie qui invoque la sentence ou qui en demande l'exécution doit en fournir l'original dûment authentifié ou une copie certifiée conforme, ainsi que l'original de la convention d'arbitrage mentionnée à l'article 7 ou une copie certifiée conforme. Si ladite sentence ou ladite convention n'est pas rédigée dans une langue officielle du présent État, la partie en produira une traduction dûment certifiée dans cette langue.

Article 36 *Motifs de refus de la reconnaissance ou de l'exécution*

(1) La reconnaissance ou l'exécution d'une sentence arbitrale, quel que soit le pays où elle a été rendue, ne peut être refusée que :

- a) sur la demande de la partie contre laquelle elle est invoquée, si ladite partie présente au tribunal compétent auquel est demandée la reconnaissance ou l'exécution la preuve :
 - (i) qu'une partie à la convention d'arbitrage visée à l'article 7 était frappée d'une incapacité; ou que ladite convention n'est pas valable en vertu de la loi à laquelle les parties l'ont subordonnée ou, à défaut d'une indication à cet égard, en vertu de la loi du pays où la sentence a été rendue, ou

- (ii) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case, or
 - (iii) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced, or
 - (iv) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place, or
 - (v) the award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made; or
- (b) if the court finds that:
- (i) the subject-matter of the dispute is not capable of settlement by arbitration under the law of this State, or
 - (ii) the recognition or enforcement of the award would be contrary to the public policy of this State.
- (2) If an application for setting aside or suspension of an award has been made to a court referred to in paragraph (1) (a) (v) of this article, the court where recognition or enforcement is sought may, if it considers it proper, adjourn its decision and may also, on the application of the party claiming recognition or enforcement of the award, order the other party to provide appropriate security.

- (ii) que la partie contre laquelle la sentence est invoquée n'a pas été dûment informée de la désignation d'un arbitre ou de la procédure arbitrale, ou qu'il lui a été impossible pour une autre raison de faire valoir ses droits, ou
 - (iii) que la sentence porte sur un différend non visé dans le compromis ou n'entrant pas dans les prévisions de la clause compromissoire, ou qu'elle contient des décisions qui dépassent les termes du compromis ou de la clause compromissoire, étant entendu – toutefois que, si les dispositions de la sentence qui ont trait à des questions soumises à l'arbitrage peuvent être dissociées de celles qui ont trait à des questions non soumises à l'arbitrage, seule la partie de la sentence contenant des décisions sur les questions soumises à l'arbitrage pourra être reconnue et exécutée, ou
 - (iv) que la constitution du tribunal arbitral, ou la procédure arbitrale, n'a pas été conforme à la convention des parties ou, à défaut d'une telle convention, à la loi du pays où l'arbitrage a eu lieu, ou
 - (v) que la sentence n'est pas encore devenue obligatoire pour les parties ou a été annulée ou suspendue par un tribunal du pays dans lequel, ou en vertu de la loi duquel elle a été rendue; ou
- b) si le tribunal constate que :
- (i) l'objet du différend n'est pas susceptible d'être réglé par arbitrage conformément à la loi du présent État, ou que
 - (ii) la reconnaissance ou l'exécution de la sentence serait contraire à l'ordre public du présent État.

(2) Si une demande d'annulation ou de suspension d'une sentence a été présentée à un tribunal visé au sous-alinéa (1) a) (v) du présent article, le tribunal auquel est demandée la reconnaissance ou l'exécution peut, s'il le juge approprié, surseoir à statuer et peut aussi, à la requête de la partie demandant la reconnaissance ou l'exécution de la sentence, ordonner à l'autre partie de fournir des sûretés convenables.

Bill 18

An Act to amend the Metropolitan Toronto Police Force Complaints Act, 1984

The Hon. I. Scott
Attorney General



1st Reading May 4th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to permit the extension of the police complaints procedure to municipalities other than Metropolitan Toronto on the request of the municipality.

SECTIONS 1 and 2. The amendments to the definitions adjust the terminology so that it is not confined to Metropolitan Toronto but can apply to any municipality to which the Act applies. The Commissioner's title is changed from "Public Complaints Commissioner" to "Police Complaints Commissioner".

SECTION 3. The new section authorizes municipalities to adopt by-laws requesting the Lieutenant Governor in Council to designate them by regulation (under clause 31 (ca) of the Act, as enacted by section 16 of the Bill). A regulation may only be made where such a by-law is passed.

SECTIONS 4 to 7. The amendments make no change in substance except to refer to all designated municipalities.

SECTION 8. Under existing section 11 of the Act the report of the Bureau's investigation is given to certain persons. The amendment would provide that the result of a further investigation by the chief of police on the request of the Commissioner be given to the same persons.

SECTION 9. Existing section 14 authorizes the chief of police to delegate to an officer of the rank of inspector or higher. The amendment permits the delegation to be to a senior officer where the police force does not have the rank of inspector.

SECTION 10. The amendment removes any doubt that the appeal from the decision of a chief of police on a disciplinary hearing is to be taken under the *Metropolitan Toronto Police Force Complaints Act, 1984* and not the *Police Act*.

SECTIONS 11 to 15. See explanatory note for sections 4 to 7 (except for subsection 13 (1)).

Clause 23 (2) (b) of the Act makes the Attorney General a party to hearings before a board of inquiry, except when the hearing is in respect of a penalty imposed on an officer. The amendment in subsection 13 (1) ensures that the Attorney General is not excluded from participating where the officer's hearing is combined with the complainant's hearing.

SECTION 16. The amendment authorizes a municipality to be designated by regulation where it has passed a by-law requesting the designation.

SECTION 17. The short title of the Act is amended to remove specific reference to the Metropolitan Police Force.

Bill 18

1987

**An Act to amend the
Metropolitan Toronto Police Force
Complaints Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clauses 1 (a) and (b) of the *Metropolitan Toronto Police Force Complaints Act, 1984*, being chapter 63, are repealed and the following substituted therefor:

(a) “Bureau” means a Public Complaints Investigation Bureau established under section 5.

(2) Clause 1 (c) of the said Act is amended by striking out “Public” in the first line and inserting in lieu thereof “Police”.

(3) Section 1 of the said Act is amended by adding thereto the following clause:

(ea) “designated municipality” means The Municipality of Metropolitan Toronto and the municipalities that are designated by a regulation made under clause 31 (ca).

(4) Clause 1 (i) of the said Act is repealed and the following substituted therefor:

(i) “police association” means the association as defined in the *Police Act* for the police force of a designated municipality. R.S.O. 1980,
c. 381

(5) Section 1 of the said Act is further amended by adding thereto the following subsection:

(2) A reference in this Act to a police officer, chief of police, police force, Bureau, board of inquiry or panel for References to
local bodies

boards of inquiry means the one appointed or established for the designated municipality that the subject officer serves.

2. Section 2 of the said Act is amended by striking out “Metropolitan Police Force” in the third line and inserting in lieu thereof “police force of a designated municipality”.

3. The said Act is amended by adding thereto the following section:

By-laws to
request
application of
Act
R.S.O. 1980,
c. 381

2a.—(1) The council of a municipality that maintains a police force other than by agreement under section 64 of the *Police Act* may by by-law request the Lieutenant Governor in Council to designate the municipality as one to which this Act applies.

Idem

(2) The council of a municipality that maintains a police force by agreement under section 63 of the *Police Act* may pass a by-law under subsection (1) only if the municipality providing the services is a designated municipality.

4.—(1) Subsection 3 (1) of the said Act is amended by striking out “Public” in the second line and inserting in lieu thereof “Police”.

(2) Section 3 of the said Act is amended by adding thereto the following subsections:

Local offices

(6a) The Commissioner shall establish a local office in each designated municipality.

Communi-
cation to
Commis-
sioner by
local office

(6b) Any matter or thing that is required or permitted by this Act to be given to or served upon the Commissioner shall be given or served at the local office of the Commissioner.

5. Section 4 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 31, section 1, is repealed and the following substituted therefor:

Panels for
boards of
inquiry

4.—(1) The Lieutenant Governor in Council shall appoint a panel of persons for each designated municipality to act as members of boards of inquiry.

Recommen-
dations for
appointment

(2) One-third of the members of the panel shall be persons who are members of the Law Society of Upper Canada who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Idem

(3) One-third of the members of the panel shall be persons, other than police officers, who are jointly recommended for

appointment by the board of commissioners of police of the designated municipality, or, where there is no board, the council, and by the police association, if any.

(4) If the joint recommendations referred to in subsection (3) are not submitted to the Attorney General in writing within the time that the Attorney General may specify, one-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Failure to
make joint
recommen-
dations

(5) Before making the recommendation referred to in subsection (4), the Attorney General and Solicitor General shall consider any recommendations made by the board of commissioners of police or council alone or the police association alone.

Individual
recommen-
dations to be
considered

(6) One-third of the members of the panel shall be persons recommended for appointment by the council of the designated municipality.

Recommen-
dations for
appointment

(7) If the recommendations referred to in subsection (6) are not submitted to the Attorney General in writing within the time that the Attorney General may specify, one-third of the members of the panel shall be persons, other than members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Failure to
make
recommen-
dations

(8) Appointments to the panel shall be for a term of two years and a person who is appointed may be reappointed for a further term or terms not exceeding, in each instance, two years.

Term

(9) A member of the panel whose term expires without reappointment continues in office for the purpose of completing the work of a board of inquiry to which the member was assigned before the expiration of the term.

Continuance
in office for
uncompleted
assignments

(10) Notwithstanding subsection 34 (1), the members of the Police Complaints Board, except the chairman, constituted under the *Metropolitan Police Force Complaints Project Act, 1981* shall act as members of boards of inquiry under this Act until such time as the panel referred to in subsection (1) is appointed and members of the Police Complaints Board appointed from the groups set out in subsections 4 (4), (5) and (6), respectively, of the *Metropolitan Police Force Complaints Project Act, 1981* shall be deemed to be recommended under subsections (2), (3) and (6) of this section, respectively.

Members of
Police
Complaints
Board under
1981. c. 43

Remuner-
ation

(11) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

6. Subsection 5 (1) of the said Act is amended by striking out “Metropolitan Police Force” in the second and third lines and inserting in lieu thereof “police force”.

7. Subsection 6 (1) of the said Act is amended by striking out “Metropolitan Toronto” in the second line and inserting in lieu thereof “the designated municipality”.

8. Subsection 11 (6) of the said Act is amended by adding at the end thereof “the chief of police, the complainant and the subject officer”.

9. Subsection 14 (7) of the said Act is amended by inserting after “higher” in the second line “or, if none, a senior officer who is not a member of the police association”.

10. Section 16 of the said Act is amended by striking out “the officer may appeal” in the third line and inserting in lieu thereof “any appeal therefrom shall be taken”.

11. Section 21 of the said Act is repealed and the following substituted therefor:

Report

21.—(1) Where, after making a review, the Commissioner is of the opinion that a police practice or procedure should be altered, the Commissioner shall report the opinion and any recommendations to the board of commissioners of police of the designated municipality or, where there is no board, the council, to the chief of police and to the police association, if any.

Idem

(2) Where, as a result of any matter dealt with under this Act, the Commissioner is of the opinion that a practice or procedure or law affecting the resolution or prevention of public complaints should be altered or implemented, the Commissioner shall report the opinion and any recommendations to the board of commissioners of police of the designated municipality or, where there is no board, the council, to the chief of police and to the police association, if any.

Idem

(3) Within ninety days of receiving a report under subsection (1) or (2), the board of commissioners of police or council, as the case may be, shall forward the report along with their comments and any comments submitted to them by the chief of police or the police association, to the Attorney General, the Solicitor General and the Commissioner.

12. Subsection 22 (5) of the said Act is amended by inserting after “subsection 4 (3)” in the fifth line “or (4), as the case may be” and by striking out “4 (4)” in the seventh line and inserting in lieu thereof “4 (6) or (7), as the case may be”.

13.—(1) Clause 23 (2) (b) of the said Act is amended by striking out “where an appeal” in the first line and inserting in lieu thereof “in respect of an appeal that”.

(2) Clause 23 (17) (a) of the said Act is amended by striking out “Metropolitan Police Force” in the first and second lines and inserting in lieu thereof “police force”.

(3) Clause 23 (17) (b) of the said Act is amended by striking out “Metropolitan Police Force” in the first and second lines and inserting in lieu thereof “police force”.

(4) Subsection 23 (20) of the said Act is amended by striking out “Metropolitan Board of Commissioners of Police” in the first line and inserting in lieu thereof “board of commissioners of police for the designated municipality or, where there is no board, the council”.

14. Subsection 26 (1) of the said Act is amended by striking out “Metropolitan Police Force” in the second and third lines and inserting in lieu thereof “police force”.

15. Section 29 of the said Act is amended by striking out “The Municipality of Metropolitan Toronto” in the second and third lines and inserting in lieu thereof “a designated municipality”.

16. Section 31 of the said Act is amended by adding thereto the following clause:

- (ca) designating a municipality that has passed a by-law under section 2a as a municipality to which this Act applies.

17. Section 36 of the said Act is repealed and the following substituted therefor:

36. The short title of this Act is the *Police Force Complaints Act, 1984*. Short title

18. This Act comes into force on the day it receives Royal Assent. Commence-
ment

19. The short title of this Act is the *Metropolitan Toronto Police Force Complaints Amendment Act, 1987*. Short title

Bill 19

An Act to amend the District Municipality of Muskoka Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading May 4th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

Section 51 of the *District Municipality of Muskoka Act* now reads as follows:

51. No area municipality shall exercise any power with respect to the preparation and lodging of official plans under Part III of the Planning Act, 1983.

Under the Act, the responsibility for the preparation and adoption of an official plan for the District Area is vested in the District Council. The effect of the re-enactment of section 51 is to vest in each area municipality responsibility for its own official plan; those parts of the District Area official plan that now apply specifically to an area municipality will become that municipality's official plan.

The District Area official plan, except for the amendments thereto that apply specifically to an area municipality, continues as the official plan for the Area. Amendments to the District Area official plan in process when the re-enacted section 51 comes into force will continue to be dealt with, and when approved, will be allocated, if appropriate, to one or more of the area municipalities' official plans.

Bill 19

1987

**An Act to amend the
District Municipality of Muskoka Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 51 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 5, section 12, is repealed and the following substituted therefor:

51.—(1) In this section, “District Plan” means the official plan of the District Area. Definition

(2) Amendments numbered 34, 41, 55 and 56 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Town of Bracebridge, become the official plan of the Town of Bracebridge. Official plan,
Town of
Bracebridge

(3) Amendment numbered 15 to the District Plan is hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Township of Georgian Bay, become the official plan of the Township of Georgian Bay. Official plan,
Township of
Georgian
Bay

(4) Amendment numbered 13 as approved and amendments numbered 10, 18, 22, 36 and 54 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Town of Gravenhurst, become the official plan of the Town of Gravenhurst. Official plan,
Town of
Gravenhurst

(5) Amendments numbered 1, 9, 14, 21, 23, 24, 25, 26, 30, 32, 33, 39, 42, 44 and 45 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Town of Huntsville, become the official plan of the Town of Huntsville. Official plan,
Town of
Huntsville

Official plan,
Township of
Lake of Bays

(6) Amendments numbered 3, 11, 23 and 28 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Township of Lake of Bays, become the official plan of the Township of Lake of Bays.

Official plan,
Township of
Muskoka
Lakes

(7) Amendments numbered 2, 12, 19 and 40 to the District Plan are hereby removed from the District Plan and together with amendments numbered 27 and 47 to the District Plan, as they apply to the Township of Muskoka Lakes, become the official plan of the Township of Muskoka Lakes.

District
Plan

(8) Amendments numbered 27 and 47 to the District Plan continue to form part of the District Plan while also becoming part of the official plans of each of the area municipalities as provided for in subsections (2) to (7).

Processing of
District Plan
amendments

(9) Where an amendment to the District Plan has been submitted to the Minister for approval and the amendment or a part thereof is not approved before the coming into force of this section, the Minister or the Municipal Board, on a referral thereto, may, without any further requirement, continue to deal with the amendment or the part thereof under the provisions of the *Planning Act, 1983* and in so doing, may allocate the amendment or the part thereof to form part of such official plan as is considered appropriate.

1983, c. 1

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *District Municipality of Muskoka Amendment Act, 1987*.

Bill 20

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. B. Grandmaître
Minister of Municipal Affairs



1st Reading May 4th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The proposed amendment makes the clerk of each area municipality responsible for certifying and forwarding to the clerk of the Metropolitan Council the name of each person from that area municipality who has been elected or appointed to the Metropolitan Council.

SECTION 2. Subsection 21 (3) of the Act is repealed as it is now dealt with under the *Municipal Conflict of Interest Act, 1983*.

SECTION 3. The proposed amendment vests in the Metropolitan Corporation the title to the original roads in the metropolitan road system established by by-law of the Metropolitan Council in 1953.

SECTION 4. The proposed amendment corrects an incorrect cross-reference to the *Education Act*.

SECTIONS 5, 6, 7 and 8. These proposed amendments relate to the powers and duties of the Metropolitan Toronto Library Board. The *Public Libraries Act, 1984* repealed the former *Public Libraries Act* and the powers of the Metropolitan Toronto Library Board were not included in the new Act.

SECTION 9. The proposed section would transfer certain provincially-owned lands in the Town of Vaughan and the City of Brampton to the City of Etobicoke to accommodate the re-alignment of a road.

SECTION 10. This amendment repeals a provision made redundant by the repeal of the *Juvenile Delinquents Act (Canada)*.

SECTION 11. The proposed amendment provides that fines and penalties for contraventions of area municipal by-laws belong to that municipality if the prosecution has been initiated by area officials.

SECTION 12. The proposed amendments would remove the ten-year limitation on the right to sell refreshments and liquor in metropolitan parks.

SECTION 13. The proposed amendment to subsection 245 (1) would make section 112 of the *Municipal Act* (which prohibit councils from assisting business ventures) applicable to the Metropolitan Council.

The proposed subsection 245 (6a) would give the Metropolitan Council the power to appoint regional fire co-ordinators.

Bill 20**1987**

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 6 (3) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) Where a person is elected or appointed to represent an area municipality as a member of the Metropolitan Council or is elected or appointed as mayor of an area municipality, the clerk of the area municipality, forthwith after the election or appointment, shall certify under the seal of the area municipality to the clerk of the Metropolitan Corporation the name of each person who has been so elected or appointed, and the person shall not take the seat to which the person has become entitled until the clerk of the Metropolitan Corporation has received such a certificate in respect of that person.

Certificate
of
qualification

2. Subsection 21 (3) of the said Act is repealed.

3. Section 70 of the said Act is amended by adding thereto the following subsection:

(4a) The soil and freehold of all roads designated to be assumed as metropolitan roads in a by-law passed under subsection (1) and approved by the Lieutenant Governor in Council under subsection (4) are deemed to have vested in the Metropolitan Corporation on the 1st day of January, 1954.

Deemed
vesting of
certain roads

4. Subclause 127 (1) (g) (v) of the said Act is amended by striking out "paragraph 33" in the sixth line and inserting in lieu thereof "paragraph 34".

5. Section 147 of the said Act is amended by adding thereto the following clause:

- (c) "Minister" means the Minister of Citizenship and Culture.

6.—(1) Subsection 148 (1) of the said Act is amended by striking out "The regional library board, which is a corporation, under the name of" in the first and second lines and inserting in lieu thereof "The corporation known as the".

(2) Subsection 148 (3) of the said Act is amended by adding at the end thereof "and may be re-appointed for one or more terms".

(3) Subsection 148 (4) of the said Act is repealed.

(4) Subsection 148 (7) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 57, section 44, is repealed and the following substituted therefor:

Acting
chairman

(7) In the absence of the chairman or the vice-chairman, if any, the Library Board may appoint one of its members as acting chairman.

7. Section 149 of the said Act is amended by adding thereto the following subsection:

J. Ross
Robertson
Collection

(9) The Library Board has, and since the 23rd day of August, 1977 shall be deemed to have had, the power to maintain the personal property known as the J. Ross Robertson Collection in such building of the Library Board as the Library Board considers appropriate.

8. Part IX of the said Act is amended by adding thereto the following sections:

Primary
functions of
Library
Board

149a.—(1) The primary functions of the Library Board shall be, in co-operation with the area and other library boards,

- (a) to provide a reference and research service that reflects the Metropolitan Area's unique needs; and
- (b) to supplement the public services provided by the area boards,

and for the purposes of clause (b), and for the purposes of provision by the Library Board of library resources and services to the Ontario library community, the Library Board shall be deemed to be a special library service board within the meaning of section 40 of the *Public Libraries Act, 1984*,

but subsection 42 (2) of that Act shall not apply to the Library Board.

(2) The Minister may make grants to the Library Board under subsection 40 (1) of the *Public Libraries Act, 1984* for the purposes of the functions described in clauses (1) (a) and (b) and for any other resources and services specified by the Minister to be provided by the Library Board in its capacity as a special library service board.

Grants
1984, c. 57

(3) The Library Board,

Powers and
duties of
Library
Board

- (a) shall maintain a comprehensive collection of books, periodicals, films and other material for the purposes of clause (1) (a);
- (b) may operate a book-information service and an inter-library book-loan service for its own collections and those of the area boards;
- (c) may operate a circulating service for any part of its collections; and
- (d) may provide such other services as it considers necessary for a comprehensive and efficient library service within the Metropolitan Area.

149b.—(1) Clauses 10 (1) (a), (b) and (d), sections 11, 12, 13, 15, 16, 17 and 18, clauses 20 (b) to (h), sections 22, 23 and 28, subsection 35 (1) and section 37 of the *Public Libraries Act, 1984* apply with necessary modifications to the Library Board.

Application
of
1984, c. 57

(2) For the purposes of clause 10 (1) (d) of the *Public Libraries Act, 1984*, any employee of any of the appointing bodies referred to in subsection 148 (1) shall be deemed to be an employee of the Metropolitan Corporation.

Idem

(3) For the purposes of clause 13 (d) of the *Public Libraries Act, 1984*, the reference therein to clause 10 (1) (c) shall be deemed to be a reference to the membership and residential requirements of clauses 148 (1) (a), (c), (d) and (e) of this Act.

Idem

(4) For the purposes of subsection 22 (1) of the *Public Libraries Act, 1984*, the Metropolitan Council shall be deemed to be the sole appointing council.

Idem

9. Section 150 of the said Act is amended by adding thereto the following subsection:

Portions of
Brampton
and Vaughan
annexed to
Etobicoke

(2a) On the 1st day of January, 1987,

- (a) that portion of the City of Brampton described as follows is annexed to The Corporation of the City of Etobicoke:

Parts 1, 2, 3, 4, 5 and 6 on a plan deposited in the Land Registry Office for the Registry Division of Peel (No. 43) as Plan 43R-10527; and

- (b) that portion of the Town of Vaughan described as follows is annexed to The Corporation of the City of Etobicoke:

Parts 1, 2 and 3 on a plan deposited in the Land Registry Office for the Registry Division of York Region (No. 65) as 65R-4820, Parts 1, 2, 3, 4, 5 and 6 on a plan deposited in the said Land Registry Office as 65R-4821, Parts 1 and 2 on a plan deposited in the said Land Registry Office as 65R-5681 and Parts 1, 2, 3, 4, 5, 6, 7, 8 and 11 on a plan deposited in the said Land Registry Office as 65R-8430.

10. Section 166 of the said Act is repealed.

11. Section 186 of the said Act is repealed and the following substituted therefor:

Fines and
penalties

186.—(1) Subject to subsection (2), the fines and penalties imposed for a contravention of a by-law of an area municipality where its employees or agents initiate a prosecution in accordance with the *Provincial Offences Act* belong to that area municipality.

R.S.O. 1980,
c. 400

Idem

(2) The fines and penalties that but for this Act would otherwise belong to an area municipality belong to the Metropolitan Corporation.

12.—(1) Subsection 206 (2) of the said Act is repealed and the following substituted therefor:

Sale of liquor
in parks

(2) In addition to the powers that may be exercised under subsection (1), the Metropolitan Council has power, subject to the *Community Recreation Centres Act*, to let, for such period as it considers advisable, the right to sell refreshments and, subject to the *Liquor Licence Act* and the regulations made thereunder, spirituous, fermented or intoxicating liquors within the metropolitan parks under such regulations as the Metropolitan Council may prescribe.

R.S.O. 1980,
cc. 80, 244

(2) Clause 206 (5) (a) of the said Act is repealed and the following substituted therefor:

- (a) exercise all or any of the powers conferred on it under subsections (1) and (2) in respect of such lands.

13.—(1) Subsection 245 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 18, section 17, is amended by inserting after “106” in the second line “112”.

(2) Section 245 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 18, section 17, is further amended by adding thereto the following subsection:

(6a) The Metropolitan Corporation shall appoint a metropolitan fire co-ordinator who shall be responsible for the establishment of an emergency fire service plan and program for the Metropolitan Area, and the Metropolitan Corporation is authorized to expend such sums as it considers necessary to implement the plan and program.

Metropolitan
fire co-
ordinator

14.—(1) This Act, except sections 9 and 11, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 9 shall be deemed to have come into force on the 1st day of January, 1987.

Idem

(3) Section 11 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

15. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1987*.

Short title

Bill 22

An Act respecting the Operation of the Greenwood Raceway and the Composition of the Ontario Racing Commission

Ms Bryden



1st Reading May 4th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 2. Self-explanatory.

SECTION 3. A mechanism is set up requiring the Ontario Racing Commission to hold a public hearing and consider any submissions of interested persons residing near Greenwood Raceway before making a decision concerning the Raceway that may affect the quality of those persons' lives.

SECTION 4. A decision of the Commission under section 3 is made subject to review by an independent adjudicator, whose decision is final.

SECTION 5. Self-explanatory.

SECTION 6. Self-explanatory.

SECTION 7. The *Racing Commission Act* is amended to provide that the Commission be composed of seven members, of whom only three can be representatives of the racing industry. Of the others, one must live within one kilometre of the Greenwood Raceway, two must live within four kilometres of a race track in Ontario and the seventh, the chairman, must be independent of the industry and the residents living in the vicinity of race tracks.

Bill 22

1987

**An Act respecting the Operation of the
Greenwood Raceway and the Composition of the
Ontario Racing Commission**

Whereas, the Greenwood Raceway is the only race track in Ontario located in a large, high density, urban residential area; and whereas the people who live in the vicinity of the Greenwood Raceway are seriously disadvantaged and suffer a deterioration in the quality of their lives as a result of the parking, traffic and transit congestion and by the noise and litter that the operation of the Greenwood Raceway causes to them close to 300 days each year; and whereas the Greenwood Raceway has had a tradition of not operating on Sunday since it opened more than 100 years ago; and whereas it is in the public interest to ensure that the people who live in the vicinity of the Greenwood Raceway are treated fairly and justly by being permitted to have Sundays free of racing activities and to have quiet enjoyment of their homes and property on that day; and whereas the people who live in the vicinity of the Greenwood Raceway and of other race tracks are not given an opportunity to affect the decisions of the Ontario Racing Commission regulating the days and hours of racing and intertrack wagering for race tracks in Ontario even though those decisions have a major impact on those people's lives;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Commission” means the Ontario Racing Commission established under the *Racing Commission Act*;

R.S.O. 1980,
c. 429

“Raceway” means the Greenwood Raceway, located on Queen Street East in the City of Toronto.

2. There shall be no racing or intertrack wagering activities carried on at the Raceway on Sundays.

No Sunday
race track
activities

Opportunity
to be heard

3.—(1) Before the Commission makes any decision concerning the operation of the Raceway that may affect the quality of life of the persons who live within one kilometre of the Raceway, it shall hold a public hearing and give full consideration to any oral or written submissions concerning the proposed decision made at that hearing by persons who live within one kilometre of the Raceway and by representatives of any organizations representing those persons.

Notice of
hearing

(2) At least three weeks before holding a public hearing under subsection (1), the Commission shall publish a notice of public hearing in at least two daily newspapers having general circulation in Toronto and shall post the notice outside the entrance to the Raceway.

Contents of
notice of
hearing

(3) The notice published and posted under subsection (2) shall state,

- (a) the decision that is proposed to be made;
- (b) the date, time and place for the hearing; and
- (c) that persons who live within one kilometre of the Raceway and representatives of organizations representing those persons are invited to make oral or written representations to the Commission concerning the proposed decision at the hearing.

Reasons for
decision

(4) The Commission shall give written reasons for any decision made under this section and shall make a copy of those reasons available to any member of the public who so requests.

Notice of
decision

(5) Where, after holding a public hearing under subsection (1), the Commission makes a decision concerning its proposal, it shall publish a notice of its decision in at least two daily newspapers having general circulation in the City of Toronto and shall post a notice of its decision outside the entrance to the Raceway and that notice shall inform persons of where they may obtain copies of the reasons for the decision.

Appeal

4.—(1) Where, within thirty days after a decision of the Commission made under section 3 is published and posted, at least ten persons who live within one kilometre of the Raceway notify the Chief Justice of the Supreme Court of Ontario in writing of their desire to have the decision reviewed, there shall be a review of the decision and the Chief Justice shall appoint an adjudicator to carry out that review.

(2) An adjudicator appointed under subsection (1) shall by whatever means the adjudicator deems appropriate consider the position of the Commission, representatives of the racing industry, the persons who requested the review and any other persons who live within one kilometre of the Raceway and shall make whatever decision he or she considers appropriate.

Adjudicator
to make
decision

(3) An adjudicator appointed under subsection (1) may attempt to mediate or settle any outstanding matters while conducting a review.

Adjudicator
may mediate

(4) A decision of an adjudicator is final.

Decision final

(5) The *Statutory Powers Procedure Act* does not apply to a review by an adjudicator under this Act.

Non-
application
of
R.S.O. 1980,
c. 484

(6) The Minister responsible for administering the *Racing Commission Act* shall pay an adjudicator appointed under subsection (1) such fees and expenses as are prescribed by the regulations.

Fees of
adjudicator
R.S.O. 1980,
c. 429

5. The Lieutenant Governor in Council may make a regulation prescribing the fees and expenses payable to an adjudicator under this Act.

Regulations

6. The provisions of this Act are in addition to the provisions of the *Racing Commission Act*, and in the event of a conflict between a provision of that Act and a provision of this Act, the provision of this Act shall prevail.

Conflict

7.—(1) Section 2 of the *Racing Commission Act*, being chapter 429 of the Revised Statutes of Ontario, 1980, is amended by striking out “not fewer than three and not more than” in the third and fourth lines.

(2) The said section 2 is further amended by adding thereto the following subsection:

(2) Four of the persons appointed under subsection (1) shall be persons who are not connected with the horse racing industry and of those,

Idem

(a) one shall be a person who resides within one kilometre of the Raceway;

(b) two shall be persons who reside within four kilometres of a race track in Ontario; and

- (c) one shall be a person who is independent of the horse racing industry and of the persons who live in the vicinity of race tracks in Ontario.

(3) Subsection 5 (1) of the said Act is repealed and the following substituted therefor:

Chairman
and vice-
chairman

(1) The person appointed under clause 2 (2) (c) shall be the chairman and the Lieutenant Governor in Council shall name one of the other members to be the vice-chairman.

Commence-
ment

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. The short title of this Act is the *Greenwood Raceway Act, 1987*.

Bill 23

**An Act to provide for
greater Certainty in the
Reconciliation of the
Personal Interests of
Members of the Assembly
and the Executive Council
with their
Duties of Office**

The Hon. I. Scott
Attorney General

1st Reading May 5th, 1987
2nd Reading
3rd Reading
Royal Assent

Projet de loi 23

**Loi assurant
une plus grande certitude
quant au rapprochement
des intérêts personnels des
membres de l'Assemblée
et du Conseil des ministres
avec les devoirs
de leurs fonctions**

L'honorable I. Scott
procureur général



1^{re} lecture 5 mai 1987
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The Bill codifies the conduct of members of the Assembly and of the Executive Council that constitutes abuses of office.

They are:

1. Conflict of interest (s. 2).
2. Use of insider information (s. 3).
3. Use of influence of office (s. 4).
4. Acceptance of extra benefits (s. 5).

In addition, it is an abuse of office for a member of the Executive Council to grant a benefit to a former member of the Executive Council or to a person on whose behalf a former member has made representations during the first year after the former member leaves the Executive Council (s. 6). It is also an abuse of office for a member of the Executive Council to continue to carry on business (s. 7).

A Commissioner is established as an officer of the Assembly to act as advisor and authority in respect of breaches of the Act. The Commissioner ensures that the required disclosures are adequate and may conduct inquiries and give opinions respecting compliance with the Act. The Commissioner may also recommend that the Assembly impose specified penalties against a member who contravenes the Act.

NOTES EXPLICATIVES

Le projet de loi codifie les actes des membres de l'Assemblée législative et du Conseil des ministres qui constituent des abus de fonction. Ces actes sont les suivants :

1. Conflit d'intérêts (art. 2).
2. Usage de renseignements d'initiés (art. 3).
3. Usage de l'influence dérivée des fonctions (art. 4).
4. Acceptation d'avantages supplémentaires (art. 5).

En outre, constitue un abus de fonction le fait pour un membre du Conseil des ministres d'accorder un avantage à un ancien membre du Conseil ou à une personne pour laquelle un ancien membre a fait des observations durant la première année qui suit son départ du Conseil (art. 6). Constitue également un abus de fonction le fait pour un membre de continuer d'exercer des activités commerciales (art. 7).

Est créé un poste de Commissaire qui est un fonctionnaire de l'Assemblée et qui, à ce titre, conseille et prend des décisions dans le cas où des infractions sont commises à la loi. Le Commissaire s'assure que les divulgations requises sont satisfaisantes, et peut effectuer des enquêtes et donner des avis au sujet de l'observation de la loi. Le Commissaire peut également recommander que l'Assemblée impose des sanctions précises à un membre qui contrevient à la loi.

Bill 23**1987**

**An Act to provide for greater Certainty in the
Reconciliation of the Personal Interests of
Members of the Assembly and the Executive Council
with their Duties of Office**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

"membre"

"member" means a member of the Legislative Assembly or of the Executive Council, or both;

"intérêt
personnel"

"private interest" does not include an interest in a decision,

(a) that is of general public application,

(b) that affects a member as one of a broad class of electors, or

(c) that concerns the remuneration and benefits of a member or an officer or employee of the Legislative Assembly;

"conjoint"

"spouse" means a person of the opposite sex to whom the member is married or with whom the member is living in a conjugal relationship outside marriage, but does not include a person to whom the member is married if they have made a separation agreement or if their support obligations and family property have been dealt with by a court order.

Conflict of
interest

2. For the purposes of this Act, a member has a conflict of interest when the member makes a decision or participates in making a decision in the execution of his or her office and at the same time knows that in the making of the decision there is the opportunity to further his or her private interest.

Projet de loi 23**1987**

**Loi assurant une plus grande certitude
quant au rapprochement des intérêts personnels des
membres de l'Assemblée et du Conseil des ministres
avec les devoirs de leurs fonctions**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Les définitions qui suivent s'appliquent à la présente loi. Définitions

«conjoint» Personne du sexe opposé avec qui le membre est marié ou avec qui il vit dans une union conjugale hors du mariage, à l'exclusion toutefois de la personne avec qui le membre est marié s'ils ont conclu un accord de séparation ou bien si leurs obligations alimentaires et leurs biens familiaux ont fait l'objet d'une ordonnance. «spouse»

«intérêt personnel» Ne comprend pas un intérêt dans une décision qui, selon le cas : «private interest»

- a) est d'application publique en général;
- b) concerne un membre en sa qualité de membre d'une vaste catégorie d'électeurs;
- c) concerne la rémunération et les avantages d'un membre, d'un fonctionnaire ou d'un employé de l'Assemblée législative.

«membre» Membre de l'Assemblée législative ou du Conseil des ministres, ou des deux. «member»

2 Pour l'application de la présente loi, le membre a un conflit d'intérêts lorsqu'il prend une décision ou participe à celle-ci dans l'exécution de ses fonctions et qu'il sait, en prenant cette décision, qu'existe la possibilité de favoriser ses intérêts personnels. Conflit d'intérêts

Insider
information

3. A member shall not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further the member's private interest.

Influence

4. A member shall not use his or her office to seek to influence a decision made by another person to further the member's private interest.

Accepting
extra benefits

5.—(1) A member shall not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office.

Exception

(2) Subsection (1) does not apply to a gift or personal benefit that is received as an incidence of the protocol or social obligations that normally accompany the responsibilities of office.

Disclosure

(3) Where a gift or personal benefit referred to in subsection (2) exceeds \$200 in value, or where the total value received directly or indirectly from one source in any twelve-month period exceeds \$200, the member shall immediately disclose to the Commissioner in the form prescribed by the regulations the nature of the gift or benefit, its source and the circumstances under which it was given and accepted.

Former
members of
Executive
Council,
benefits and
lobbying

6.—(1) The Executive Council, a member of the Executive Council or an employee of a ministry (other than an employee of an agency, board or commission) shall not knowingly,

- (a) award or approve a contract with, or grant a benefit to, a former member of the Executive Council, until twelve months have expired after the date when the former member ceased to hold office;
- (b) award or approve a contract with, or grant a benefit to, a former member of the Executive Council who has, during the twelve months after the date when he or she ceased to hold office, made representations in respect of the contract or benefit;
- (c) award or approve a contract with, or grant a benefit to, a person on whose behalf a former member of the Executive Council has, during the twelve months after the date when he or she ceased to hold office, made representations in respect of the contract or benefit.

3 Le membre n'utilise pas les renseignements qu'il obtient dans l'exercice de ses fonctions et qui ne sont pas accessibles au public en général, afin de favoriser ou de chercher à favoriser ses intérêts personnels.

Renseignements d'initiés

4 Le membre ne fait pas usage de ses fonctions afin de chercher à influencer une décision prise par une autre personne, dans le dessein de favoriser ses intérêts personnels.

Influence

5 (1) Sauf dans le cas d'une indemnisation qu'autorise la loi, le membre n'accepte pas d'honoraires, de dons ni d'avantages personnels qui sont liés, directement ou indirectement, à l'exercice des devoirs de ses fonctions.

Acceptation d'avantages supplémentaires

(2) Le paragraphe (1) ne s'applique pas à un don ni à un avantage personnel qui est reçu dans le cadre du protocole ou d'obligations sociales qui accompagnent habituellement les charges de la fonction.

Exception

(3) Si le don ou l'avantage personnel visé au paragraphe (2) a une valeur supérieure à 200 \$, ou si la valeur totale reçue, directement ou indirectement, d'une source au cours d'une période de douze mois est supérieure à 200 \$, le membre divulgue immédiatement au Commissaire, dans la forme prescrite par les règlements, la nature du don ou de l'avantage, sa source et les circonstances dans lesquelles il a été remis et accepté.

Divulgation

6 (1) Le Conseil des ministres, l'un de ses membres ou un employé d'un ministère (à l'exclusion d'un employé d'un organisme, d'un conseil ou d'une commission) ne doit sciemment :

Avantages offerts à d'anciens membres du Conseil des ministres

- a) accorder ni approuver un contrat en faveur d'un ancien membre du Conseil des ministres, ni lui accorder un avantage, tant que douze mois ne se sont pas écoulés à compter de la date où l'ancien membre a cessé d'exercer ses fonctions;
- b) accorder ni approuver un contrat, ni accorder un avantage en faveur d'un ancien membre du Conseil des ministres qui a fait des observations concernant ce contrat ou cet avantage pendant les douze mois qui suivent la date où l'ancien membre a cessé d'exercer ses fonctions;
- c) accorder ni approuver un contrat, ni accorder un avantage en faveur d'une personne pour laquelle un ancien membre du Conseil des ministres a fait des observations concernant ce contrat ou cet avantage pendant les douze mois qui suivent la date où l'ancien membre a cessé d'exercer ses fonctions.

Exception (2) Clauses (1) (a) and (b) do not apply to contracts or benefits in respect of further duties in the service of the Crown.

Idem (3) Clauses (1) (a) and (b) do not apply if the conditions on which the contract or benefit is awarded, approved or granted to the former member are the same for all persons similarly entitled.

Carrying on business

7.—(1) A member of the Executive Council shall not,

- (a) engage in employment or in the practice of a profession;
- (b) carry on a business, including the management of personal financial interests; or
- (c) hold an office or directorship other than in a social club, religious organization or political party,

except as required or permitted by the responsibilities of being a member of the Executive Council.

Management trusts

(2) If a member of the Executive Council complies with clause (1) (b) by entrusting his or her business or the management of his or her personal financial interests to one or more trustees,

- (a) the trustees shall be persons who are at arm's length with the member and approved by the Commissioner;
- (b) the trustees shall not consult with the member with respect to managing the trust property; and
- (c) the trustees shall disclose to the member and the Commissioner material changes in assets, liabilities and financial interests contained in the trust forthwith after the changes have occurred.

Procedure on conflict of interest

8.—(1) A member who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Assembly or the Executive Council, or a committee of either of them, shall, if present at a meeting considering the matter,

- (a) disclose the general nature of the conflict of interest; and
- (b) withdraw from the meeting without voting or participating in the consideration of the matter.

Idem

(2) A member of the Executive Council who has reason-

(2) Les alinéas (1) a) et b) ne s'appliquent pas aux contrats et avantages concernant d'autres devoirs au service de la Couronne. Exception

(3) Les alinéas (1) a) et b) ne s'appliquent pas si les conditions selon lesquelles le contrat ou l'avantage est accordé ou approuvé en faveur de l'ancien membre, sont les mêmes pour toutes les personnes y ayant semblablement droit. Idem

7 (1) À l'exclusion de ce qui est requis ou permis dans le cadre de ses responsabilités, le membre du Conseil des ministres : Activités commerciales

- a) n'exerce pas de profession ni d'emploi;
- b) n'exerce pas d'activités commerciales, notamment la gestion d'intérêts financiers personnels;
- c) n'occupe pas de poste ni ne fait partie d'un conseil d'administration, sauf dans un club social, une organisation religieuse ou un parti politique.

(2) Si un membre du Conseil des ministres se conforme à l'alinéa (1) b) en confiant ses activités commerciales ou la gestion de ses intérêts financiers personnels à un ou plusieurs fiduciaires, ces fiduciaires : Fiducies de gestion

- a) n'ont pas de lien de dépendance avec le membre et sont approuvées par le Commissaire;
- b) ne s'entretiennent pas avec le membre de la gestion des biens en fiducie;
- c) divulguent sans délai au membre et au Commissaire les changements importants apportés à l'actif, au passif et aux intérêts financiers qui sont déposés en fiducie après que ces changements ont été faits.

8 (1) Le membre qui a des motifs raisonnables de croire qu'il a un conflit d'intérêts dans une affaire qui est devant l'Assemblée, le Conseil des ministres ou un de leurs comités est tenu, s'il est présent à la réunion où l'affaire est étudiée : Procédure en cas de conflit d'intérêts

- a) de divulguer la nature générale du conflit d'intérêts;
- b) de se retirer de la réunion sans exercer son droit de vote ou sans participer à l'étude de l'affaire.

(2) Le membre du Conseil des ministres qui a des motifs raisonnables de croire qu'il a un conflit d'intérêts dans une affaire qui requiert sa décision, demande à un autre membre du Conseil d'exercer ses devoirs dans cette affaire en vue de prendre la décision. Le membre à qui ces devoirs sont confiés Idem

in a matter requiring the member's decision shall request another member of the Executive Council to perform the member's duties in the matter for the purpose of making the decision and the member to whom it is referred may act in the matter for the period of time necessary for the purpose.

COMMISSIONER

Commissioner **9.**—(1) There shall be a Commissioner who is an officer of the Assembly.

Appointment (2) The Lieutenant Governor in Council shall appoint a person to the office of Commissioner on the address of the Assembly.

Term of office (3) The person appointed shall hold office for a term of five years and may be reappointed for a further term or terms.

Removal (4) The person appointed as Commissioner may be removed before the expiration of the term of office by the Lieutenant Governor in Council for cause on the address of the Assembly.

Salary (5) The Commissioner shall be paid such remuneration and allowances as are fixed by the Lieutenant Governor in Council.

Staff (6) The employees and officers that are necessary for the performance of the duties of the Commissioner shall be members of the staff of the Office of the Assembly.

Annual report **10.** The Commissioner shall report annually upon the affairs of his or her office to the Speaker of the Assembly who shall cause the report to be laid before the Assembly.

DISCLOSURE

Disclosure statement **11.**—(1) Every member shall, within thirty days of taking office, and thereafter at least annually, file with the Commissioner a disclosure statement in the form prescribed by the regulations.

Contents (2) The disclosure statement shall contain,

(a) a statement of the assets, liabilities and financial interests of the member and the member's spouse and minor children;

(b) a statement of any income the member and the member's spouse and minor children, and private companies as defined in the *Securities Act* controlled by any of them, have received in the preced-

peut les exercer pendant le laps de temps nécessaire à cette fin.

COMMISSAIRE

9 (1) Est créé un poste de Commissaire qui est un fonctionnaire de l'Assemblée. Commissaire

(2) Le lieutenant-gouverneur en conseil nomme une personne au poste de Commissaire sur adresse de l'Assemblée. Nomination

(3) La personne nommée exerce un mandat de cinq ans. Son mandat peut être renouvelé. Mandat

(4) Le lieutenant-gouverneur en conseil, sur adresse de l'Assemblée, peut révoquer la personne nommée en qualité de Commissaire avant l'expiration de son mandat, pour un motif valable. Révocation

(5) Le Commissaire reçoit la rémunération et les indemnités que fixe le lieutenant-gouverneur en conseil. Traitement

(6) Le personnel nécessaire à l'exécution des fonctions du Commissaire se compose des membres du personnel du bureau de l'Assemblée. Personnel

10 Chaque année, le Commissaire présente un rapport de ses travaux au président de l'Assemblée qui le fait déposer devant l'Assemblée. Rapport annuel

DIVULGATION

11 (1) Chaque membre, dans les trente jours du début de ses fonctions, et au moins annuellement par la suite, dépose auprès du Commissaire un état de divulgation dans la forme prescrite par les règlements. État de divulgation

(2) L'état de divulgation comporte : Teneur

- a) un état de l'actif, du passif et des intérêts financiers du membre, de son conjoint et de ses enfants mineurs;
- b) un état de tout revenu que le membre, son conjoint, ses enfants mineurs, et les compagnies privées, au sens de la *Loi sur les valeurs mobilières*, dont l'un quelconque d'entre eux a le contrôle, ont reçu au cours des douze mois précédents ou sont en droit de

L.R.O. 1980,
chap. 466

ing twelve months or are entitled to receive in the next twelve months and the source of the income; and

- (c) any other information that is prescribed by the regulations.

Affiliated
corporations

(3) If an asset, liability or financial interest described in the disclosure statement relates to a corporation, the disclosure statement shall also name any other corporation that is an affiliate of the first-named corporation as determined under subsections 1 (2) to (6) of the *Securities Act*.

R.S.O. 1980,
c. 466

Meeting
with
Commis-
sioner

(4) After filing a disclosure statement, the member, and the member's spouse if the spouse is available, shall meet with the Commissioner to ensure that disclosure has been full and complete and to obtain advice on their obligations under this Act.

Public
disclosure
statement

12.—(1) After meeting with the member, and with the member's spouse if the spouse is available, the Commissioner shall prepare a public disclosure statement containing all relevant information provided by the member, and by the member's spouse if the spouse met with the Commissioner, in respect of the member, the spouse and minor children, except,

- (a) assets, liabilities and financial interests having a value of less than \$1,000;
- (b) the source of income where the income paid from the source has a value of less than \$1,000 in any twelve-month period;
- (c) the amount of income of the member's spouse or minor children or of a private company controlled by the spouse or a minor child where the income is paid from a source other than directly from a ministry or an agency, board or commission of the government;
- (d) the municipal address or legal description of real property that is primarily for the residential or recreational use of the member or the member's spouse or minor children;
- (e) personal property used for transportation or for household, educational, recreational, social or aesthetic purposes;
- (f) the amount of cash on hand or on deposit with a chartered bank, trust company or other financial

recevoir au cours des douze prochains mois, ainsi que l'indication de la source de ce revenu;

- c) tout autre renseignement prescrit par les règlements.

(3) Si un élément d'actif ou de passif ou un intérêt financier décrit à l'état de divulgation concerne une compagnie, l'état de divulgation mentionne également toute autre compagnie qui fait partie du même groupe, au sens des paragraphes 1 (2) à (6) de la *Loi sur les valeurs mobilières*.

Compagnie
du même
groupe

L.R.O. 1980,
chap. 466

(4) Après avoir déposé un état de divulgation, le membre, et son conjoint si ce dernier est disponible, rencontrent le Commissaire afin de s'assurer que la divulgation a été complète, et d'obtenir des conseils concernant leurs obligations en vertu de la présente loi.

Rencontre
avec le
Commissaire

12 (1) Après avoir rencontré le membre, et son conjoint si ce dernier est disponible, le Commissaire établit un état de divulgation publique faisant état de tous les renseignements pertinents fournis par le membre, et par le conjoint si ce dernier a rencontré le Commissaire, concernant le membre, son conjoint et ses enfants mineurs, à l'exclusion de ce qui suit :

État de
divulgation
publique

- a) l'actif, le passif et les intérêts financiers dont la valeur est inférieure à 1 000 \$;
- b) la source de revenu, si ce revenu est inférieur à 1 000 \$ au cours d'une période de douze mois;
- c) le montant du revenu du conjoint, des enfants mineurs du membre, ou d'une compagnie privée que contrôle le conjoint ou un enfant mineur, si ce revenu provient d'une source autre que directement d'un ministère, d'un organisme, d'un conseil ou d'une commission du gouvernement;
- d) l'adresse municipale ou la description légale d'un bien immeuble utilisé essentiellement à des fins de résidence ou de loisir par le membre, son conjoint ou ses enfants mineurs;
- e) les biens meubles utilisés à des fins de transport, domestiques, éducatives, sociales, décoratives ou de loisirs;
- f) le montant de l'argent en caisse ou en dépôt dans une banque à charte, compagnie de fiducie ou autre

institution in Ontario that is lawfully entitled to accept deposits;

- (g) the amount of Canada Savings Bonds and other investments or securities of fixed value issued or guaranteed by any level of government in Canada or an agency of such government;
- (h) the value of registered retirement savings plans that are not self-administered;
- (i) the amount invested in open-ended mutual funds;
- (j) the value of guaranteed investment certificates or other similar financial instruments;
- (k) the value of annuities and life insurance policies; and
- (l) the value of pension rights.

Exception

(2) The Commissioner may except from the public disclosure statement prepared under subsection (1) the source of income received by a member's spouse or minor child in respect of services that are customarily provided on a confidential basis.

Content

(3) The public disclosure statement shall contain a statement of the nature of the assets referred to in clauses (1) (f) to (l) and the name and location of persons or institutions against whom the assets are held.

Idem

(4) The public disclosure statement shall contain a statement of any gifts or benefits that have been disclosed to the Commissioner under subsection 5 (3).

Filing

(5) The Commissioner shall, as soon as is practicable, file the public disclosure statement with the Clerk of the Legislative Assembly who shall make it available for examination by the public.

Commissioner's
opinions and
advice

13.—(1) A member may, by application in writing, request that the Commissioner give an opinion and recommendations on any matter respecting the obligations of the member under this Act.

Inquiries

(2) The Commissioner may make such inquiries as the Commissioner considers appropriate and provide the member with a written opinion and recommendations.

institution financière en Ontario légitimement autorisée à accepter des dépôts;

- g) le montant d'obligations d'épargne du Canada et d'autres placements ou valeurs mobilières à valeur fixe, émis ou garantis par un palier de gouvernement au Canada ou l'un de ses organismes;
- h) la valeur des régimes enregistrés d'épargne-retraite qui ne sont pas autogérés;
- i) le montant investi dans des compagnies d'investissement à capital variable;
- j) la valeur des certificats de placement garantis ou d'autres effets financiers semblables;
- k) la valeur de rentes et de polices d'assurance-vie;
- l) la valeur des droits à une pension.

(2) Le Commissaire peut soustraire de l'état de divulgation publique établi en vertu du paragraphe (1), la source du revenu que le conjoint ou l'enfant mineur du membre a reçu en ce qui concerne des services habituellement fournis confidentiellement. Exception

(3) L'état de divulgation publique comporte une déclaration de la nature de l'actif visé aux alinéas (1) f) à l), ainsi que les noms et lieux de personnes ou d'établissements à l'égard desquels l'actif est détenu. Teneur

(4) L'état de divulgation publique comporte une déclaration des dons ou avantages qui ont été divulgués au Commissaire en vertu du paragraphe 5 (3). Idem

(5) Dès que cela est possible, le Commissaire dépose l'état de divulgation publique auprès du greffier de l'Assemblée législative qui le met à la disposition du public pour examen. Dépôt

13 (1) Un membre peut, sur demande écrite, demander que le Commissaire donne un avis et formule des recommandations sur une affaire qui a trait aux obligations du membre en vertu de la présente loi. Avis et conseils du Commissaire

(2) Le Commissaire peut faire les enquêtes qu'il estime pertinentes, et fournir au membre, par écrit, son avis et ses recommandations. Enquête

Confidentiality

(3) The opinion and recommendations of the Commissioner are confidential, but may be released by the member or with the consent of the member in writing.

Commissioner's opinion on referred question

14.—(1) A member who has reasonable and probable grounds to believe that another member is in contravention of this Act may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the Commissioner give an opinion respecting the compliance of the other member with the provisions of this Act.

Idem

(2) The Legislative Assembly may, by resolution, request that the Commissioner give an opinion on any matter respecting the compliance of a member with the provisions of this Act.

Idem

(3) The Executive Council may request that the Commissioner give an opinion on any matter respecting the compliance of a member of the Executive Council with the provisions of this Act.

Inquiry by Assembly

(4) Where a matter has been referred to the Commissioner under subsection (1) or (2), the Legislative Assembly or a committee thereof shall not conduct an inquiry into the matter.

Inquiry

15.—(1) Upon receiving a request under section 14, and on giving the member concerned reasonable notice, the Commissioner may conduct an inquiry.

Idem

(2) For the purpose of the inquiry, the Commissioner may elect to exercise the powers of a commission under Parts I and II of the *Public Inquiries Act*, in which case those Parts apply to the inquiry as if it were an inquiry under that Act.

R.S.O. 1980, c. 411

Report to Speaker

(3) Where the request for an opinion is made under subsection 14 (1) or (2), the Commissioner shall report his or her opinion to the Speaker of the Assembly who shall cause the report to be laid before the Assembly.

Report to Lieutenant Governor in Council

(4) Where the request for an opinion is made under subsection 14 (3), the Commissioner shall report his or her opinion to the Clerk of the Executive Council.

Penalties

R.S.O. 1980, c. 411

16.—(1) Where the Commissioner conducts an inquiry under Parts I and II of the *Public Inquiries Act* for the purposes of subsection 14 (1) or (2) and finds that the member has contravened section 3, 4, 5, 6, 7 or 8, or has refused to file

(3) L'avis et les recommandations du Commissaire sont confidentiels. Ils peuvent toutefois être communiqués par le membre ou avec le consentement écrit de celui-ci.

Confidentialité

14 (1) Un membre qui a des motifs raisonnables et probables de croire qu'un autre membre enfreint la présente loi peut, sur demande écrite qui énonce les motifs de sa conviction ainsi que la nature de l'infraction prétendue, demander que le Commissaire donne son avis sur une affaire ayant trait à l'observation de la présente loi par l'autre membre.

Avis du
Commissaire
sur un renvoi

(2) L'Assemblée législative peut, par voie de résolution, demander que le Commissaire donne son avis sur une affaire ayant trait à l'observation de la présente loi par un membre.

Idem

(3) Le Conseil des ministres peut demander que le Commissaire donne son avis sur une affaire ayant trait à l'observation de la présente loi par l'un de ses membres.

Idem

(4) Si une affaire a été transmise au Commissaire en vertu des paragraphes (1) ou (2), l'Assemblée législative ou l'un de ses comités n'enquête pas sur cette affaire.

Enquête par
l'Assemblée

15 (1) Après avoir reçu une demande en vertu de l'article 14 et après avoir donné un avis suffisant au membre visé, le Commissaire peut faire une enquête.

Enquête

(2) Aux fins de l'enquête, le Commissaire peut choisir d'exercer les pouvoirs conférés à une commission par les parties I et II de la *Loi sur les enquêtes publiques*, auquel cas, elles s'appliquent à l'enquête de la même façon que s'il s'agissait d'une enquête en vertu de cette loi.

Idem

L.R.O. 1980,
chap. 411

(3) Si la demande d'avis est faite en vertu des paragraphes 14 (1) ou (2), le Commissaire présente un rapport de son avis au président qui le fait déposer devant l'Assemblée.

Rapport au
président de
l'Assemblée

(4) Si la demande d'avis est faite en vertu du paragraphe 14 (3), le Commissaire fait rapport de son avis au greffier du Conseil des ministres.

Rapport au
lieutenant-
gouverneur
en conseil

16 (1) Si le Commissaire fait une enquête en vertu des parties I et II de la *Loi sur les enquêtes publiques* aux fins des paragraphes 14 (1) ou (2), et constate que le membre a contrevenu à l'article 3, 4, 5, 6, 7 ou 8, ou a refusé de déposer un état de divulgation dans le délai prévu à l'article 11, il peut

Pénalité

L.R.O. 1980,
chap. 411

a disclosure statement within the time provided by section 11, the Commissioner may recommend in the report that is laid before the Assembly,

- (a) that the member be reprimanded;
- (b) that the member pay a fine in an amount recommended by the Commissioner, but not exceeding \$5,000;
- (c) that the member pay compensation in respect of damage suffered by another person as a result of the member's contravention, in such amount as is specified by the Commissioner;
- (d) that the member's seat be declared vacant until an election is held in the member's electoral district,

or any combination of them.

Order of
Assembly

R.S.O. 1980,
c. 235

(2) The Assembly may order the imposition of the recommendation of the Commissioner under subsection (1) or may reject the recommendation, and sections 45 and 48 of the *Legislative Assembly Act* apply in the same manner as to a contempt of the Assembly, except the power to further inquire into the contravention or to impose a punishment other than the one recommended.

Regulations

17. The Lieutenant Governor in Council may make regulations prescribing any matter that is referred to in this Act as prescribed by the regulations.

Commence-
ment

18.—(1) This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Filing of
disclosure
statements

(2) Members who are in office when this Act comes into force shall file the disclosure statement required by section 11 within thirty days after this Act comes into force.

Short title

19. The short title of this Act is the *Members' Conflict of Interest Act, 1987*.

recommander, dans le rapport déposé devant l'Assemblée, une ou plusieurs des mesures suivantes :

- a) que le membre soit réprimandé;
- b) qu'il paie l'amende recommandée par le Commissaire, qui ne peut être supérieure à 5 000 \$;
- c) qu'il verse une indemnisation dont le Commissaire précise le montant, pour le dommage qu'a subi une autre personne, à la suite de la contravention du membre;
- d) qu'il ait son siège déclaré vacant jusqu'à ce qu'une élection soit tenue dans la circonscription électorale du membre.

(2) L'Assemblée peut ordonner l'imposition des mesures que recommande le Commissaire en vertu du paragraphe (1) ou rejeter ces recommandations. Les articles 45 et 48 de la *Loi sur l'Assemblée législative* s'appliquent de la même façon que dans le cas d'outrage à l'Assemblée, sauf qu'il n'est pas possible de pousser plus avant l'enquête relative à la contravention, ou d'imposer une sanction autre que celle qui est recommandée.

Ordre de
l'Assemblée

L.R.O. 1980,
chap. 235

17 Le lieutenant-gouverneur en conseil peut, par règlement, prescrire une question mentionnée dans la présente loi comme étant prescrite par les règlements.

Règlements

18 (1) La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en
vigueur

(2) Les membres en fonction lors de l'entrée en vigueur de la présente loi déposent l'état de divulgation requis par l'article 11 dans les trente jours de l'entrée en vigueur de la présente loi.

Dépôt des
états de
divulgation

19 Le titre abrégé de la présente loi est *Loi de 1987 sur les conflits d'intérêts des membres de l'Assemblée*.

Titre abrégé

Bill 24

An Act to revise the Justices of the Peace Act

The Hon. I. Scott
Attorney General

1st Reading May 5th, 1987
2nd Reading
3rd Reading
Royal Assent

Projet de loi 24

Loi révisant la Loi sur les juges de paix

L'honorable I. Scott
procureur général



1^{re} lecture 5 mai 1987
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

This revision of the *Justices of the Peace Act* deals with recommendations of Professor Alan Mewett's 1981 report to the Attorney General entitled "The Office and Function of Justices of the Peace in Ontario" as well as with concerns expressed about the independence of justices of the peace.

The Bill distinguishes between presiding and non-presiding justices of the peace. The Lieutenant Governor in Council is given the power to appoint justices of the peace and determine whether a justice is presiding or non-presiding on the recommendation of the Attorney General. Justices of the peace who now preside over Provincial Offences Courts are deemed to be presiding justices and the Lieutenant Governor in Council is given the power to designate other justices already appointed as presiding or non-presiding on the recommendation of the Review Council.

Provision is made for the Lieutenant Governor in Council to appoint a provincial judge as Co-ordinator of Justices of the Peace. The Co-ordinator is given general supervision and direction over sittings of justices of the peace and assigns their duties, subject to the authority of the chief judges. Certain duties are not to be assigned to presiding and non-presiding justices. The Co-ordinator is empowered to issue directions on matters of law and procedure that are binding on all justices of the peace.

Justices of the peace are no longer paid on the basis of fees for services. Part-time justices are to work according to a duty roster and to report the details of duties they perform to the Co-ordinator. Salaries of part-time justices are based on the Co-ordinator's determination of their workload and calculated in accordance with the regulations.

A justice can be removed from office only if,

1. a complaint is made to the Review Council,
2. an inquiry is then held by a provincial judge, and
3. following a recommendation by the judge, the Lieutenant Governor in Council orders the removal.

The Review Council is restructured to include the chief judges of the criminal and family divisions of the Provincial Court, the Co-ordinator, a justice of the peace appointed by the Lieutenant Governor in Council and not more than two other persons appointed by the Lieutenant Governor in Council. The Review Council is authorized to consider proposed appointments and to investigate complaints.

Justices of the peace are given the same immunity from liability as judges. Retirement age provisions are made to apply to all justices of the peace.

A provision in the *Mining Act* making specified officials *ex officio* justices of the peace is repealed. The *Election Act, 1984* is amended to add justices of the peace to the list of persons who shall not be appointed or act as returning officers, election clerks, deputy returning officers or poll clerks. A provision in the *Legislative Assembly Act* is amended to make justices of the peace ineligible to be members of the Assembly.

NOTES EXPLICATIVES

La présente révision de la *Loi sur les juges de paix* traite des recommandations du rapport intitulé «The Office and Function of Justices of the Peace in Ontario», présenté par le professeur Alan Mewett en 1981, ainsi que des questions qui ont été soulevées au sujet de l'indépendance des juges de paix.

Le projet de loi fait la distinction entre les juges de paix-présidents et les juges de paix non-présidents. Il est conféré au lieutenant-gouverneur en conseil le pouvoir de nommer des juges de paix et de décider si un juge de paix appartiendra à la catégorie des juges de paix-présidents ou non-présidents, sur la recommandation du procureur général. Les juges de paix qui président actuellement la Cour des infractions provinciales sont réputés des juges de paix-présidents. Il est conféré au lieutenant-gouverneur en conseil le pouvoir de désigner d'autres juges de paix déjà nommés comme appartenant à la catégorie des juges de paix-présidents ou non-présidents, sur la recommandation du Conseil d'évaluation.

Le projet de loi prévoit que le lieutenant-gouverneur en conseil nommera un juge d'une cour provinciale en tant que coordonnateur des juges de paix. Ce dernier est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions, sous réserve de l'autorité qu'exercent les juges en chef. Certaines fonctions ne sont pas affectées aux juges de paix-présidents et non-présidents. Il est également conféré au coordonnateur le pouvoir de donner des directives, portant sur des questions de droit et de procédure, qui lient les juges de paix.

La rémunération des juges de paix ne se fait plus sous forme d'honoraires. Les juges de paix à temps partiel travaillent selon un tableau de service et font rapport au coordonnateur des fonctions qu'ils remplissent. Les salaires des juges de paix à temps partiel, qui correspondent à l'évaluation de leurs charges de travail que fait le coordonnateur, sont calculés conformément aux règlements.

Le juge de paix ne peut être destitué que si :

1. le Conseil d'évaluation est saisi d'une plainte,
2. un juge d'une cour provinciale tient ensuite une enquête,
3. à la suite de la recommandation du juge, le lieutenant-gouverneur en conseil, par décret, destitue le juge de paix.

La structure du Conseil d'évaluation est modifiée afin d'inclure les juges en chef des divisions criminelle et de la famille de la Cour provinciale, le coordonnateur, un juge de paix nommé par le lieutenant-gouverneur en conseil et deux autres personnes, au plus, nommées par le lieutenant-gouverneur en conseil. Le Conseil d'évaluation étudie les candidatures et fait enquête sur les plaintes.

Les juges de paix ont la même immunité que les juges en ce qui concerne la responsabilité personnelle. Les dispositions portant sur la retraite s'appliquent maintenant à tous les juges de paix.

Est abrogée la disposition de la *Loi sur les mines* qui confère à certains fonctionnaires le statut de juges de paix d'office. La *Loi électorale de 1984* est modifiée afin d'ajouter les juges de paix à la catégorie des personnes qui ne sont pas nommées directeurs du scrutin, secrétaires du scrutin, scrutateurs ou secrétaires du bureau de vote, ni n'agissent à ces divers titres. Une disposition de la *Loi sur l'Assemblée législative* est modifiée à l'effet que les juges de paix sont désormais inhabiles à être membres de l'Assemblée.

Bill 24**1987****An Act to revise the Justices of the Peace Act****CONTENTS**

Section	Section
1. Definitions	12. Investigation of complaints by Review Council
2. Appointment of justices	13. Inquiry by provincial judge
3. Oath of office	14. Co-ordinator
4. Designation as presiding or non-presiding justice	15. Assignment of duties to presiding justice
5. Justices who are public servants, etc.	16. Assignment of duties to non-presiding justice
6. <i>Ex-officio</i> justices	17. Jurisdiction of justices
7. Retirement	18. Salaries of part-time justices
8. Resignation	19. Directions
9. Removal from office	20. Immunity from liability
10. Review Council	21. Regulations
11. Functions	22.-28. Complementary amendments and repeals
	29. Commencement
	30. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions	1. In this Act,
“coordon- nateur”	“Co-ordinator” means the Co-ordinator of Justices of the Peace appointed under section 14;
“juge de paix non- président”	“non-presiding justice of the peace” means a person designated as a non-presiding justice of the peace under section 4;
“prescrit”	“prescribed” means prescribed by the regulations;
“juge de paix- président”	“presiding justice of the peace” means a person designated as a presiding justice of the peace under section 4;
“règlements”	“regulations” means the regulations made under this Act;

Projet de loi 24

1987

Loi révisant la Loi sur les juges de paix

TABLE DES MATIÈRES

Article	Article
1 Définitions	13 Enquête du juge d'une cour provinciale
2 Nomination des juges de paix	14 Coordonnateur
3 Serment d'entrée en fonction	15 Assignation des fonctions au juge de paix-président
4 Désignation à titre de juge de paix-président ou non-président	16 Assignation des fonctions au juge de paix non-président
5 Juges de paix qui sont fonctionnaires, etc.	17 Compétence du juge de paix
6 Juges de paix d'office	18 Traitements des juges de paix à temps partiel
7 Retraite	19 Directives
8 Démission	20 Immunité
9 Destitution	21 Règlements
10 Conseil d'évaluation	22-28 Modifications supplémentaires et abrogations
11 Fonctions	29 Entrée en vigueur
12 Enquête du Conseil d'évaluation sur les plaintes	30 Titre abrégé

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

- 1 Les définitions qui suivent s'appliquent à la présente loi.

Définitions
- «Conseil d'évaluation» Le Conseil d'évaluation des juges de paix maintenu en fonction par l'article 10.

«Review Council»
- «coordonnateur» Le coordonnateur des juges de paix nommé en vertu de l'article 14.

«Co-ordinator»
- «juge de paix non-président» Personne désignée comme juge de paix non-président en vertu de l'article 4.

«non-presiding justice of the peace»
- «juge de paix-président» Personne désignée comme juge de paix-président en vertu de l'article 4.

«presiding justice of the peace»
- «prescrit» Prescrit par les règlements.

«prescribed»

"Conseil
d'évaluation"

"Review Council" means the Justices of the Peace Review Council continued by section 10.

Appointment
of justices

2.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint full-time and part-time justices of the peace.

Transition
R.S.O. 1980,
c. 227

(2) Every person who receives a salary as a justice of the peace in accordance with subsection 7 (2) of the *Justices of the Peace Act* immediately before this Act comes into force shall be deemed to have been appointed as a full-time justice of the peace and every other person who is a justice of the peace immediately before this Act comes into force shall be deemed to have been appointed as a part-time justice of the peace.

Re-
appointment
as part-time

(3) The Lieutenant Governor in Council shall not appoint a full-time justice of the peace to be a part-time justice of the peace unless the Review Council recommends the reappointment.

Other work

(4) A full-time justice of the peace shall not engage in any other remunerative work.

Oath of
office

3. Every justice of the peace, before beginning the duties of office, shall make the following oath or affirmation in French or in English:

I, , solemnly swear (affirm) that I will faithfully and to the best of my skill and knowledge, execute the duties of a justice of the peace, and I will do so without fear or favour, affection or ill will. So help me God. (Omit last sentence in an affirmation.)

Presiding or
non-presiding

4.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, shall designate every justice of the peace appointed after the coming into force of this Act as a presiding justice of the peace or a non-presiding justice of the peace.

Deemed
designation

(2) Every person, other than a person to whom section 5 applies, who is a justice of the peace authorized to preside at the trial of an offence described in clause 16 (c) (provincial offences) immediately before this Act comes into force and has not attained the age of seventy at that time shall be deemed to have been designated as a presiding justice of the peace.

«règlements» Les règlements pris en application de la présente loi. «regulations»

2 (1) Le lieutenant-gouverneur en conseil peut, sur la recommandation du procureur général, nommer des juges de paix à temps plein et à temps partiel. Nomination des juges de paix

(2) Les personnes qui reçoivent un traitement à titre de juge de paix conformément au paragraphe 7 (2) de la *Loi sur les juges de paix* immédiatement avant l'entrée en vigueur de la présente loi sont réputées avoir été nommées juges de paix à temps plein. Les autres personnes qui sont juges de paix immédiatement avant l'entrée en vigueur de la présente loi sont réputées avoir été nommées juges de paix à temps partiel. Disposition transitoire L.R.O. 1980, chap. 227

(3) Le lieutenant-gouverneur en conseil ne nomme pas un juge de paix à temps plein pour qu'il devienne juge de paix à temps partiel, à moins que le Conseil d'évaluation ne recommande cette nouvelle nomination. Nouvelle nomination à temps partiel

(4) Le juge de paix à temps plein n'entreprend aucun autre travail rémunéré. Autres fonctions

3 Avant d'entrer en fonction, le juge de paix fait la prestation de serment ou l'affirmation solennelle suivante, en français ou en anglais : Serment d'entrée en fonction

Je soussigné(e), , déclare sous serment (affirme) que j'accomplirai fidèlement et de mon mieux les fonctions de juge de paix, et que j'agirai sans peur ni favoritisme, parti pris ni mauvaise volonté. Ainsi que Dieu me soit en aide. (S'il s'agit d'une affirmation, ne pas ajouter la dernière phrase.)

4 (1) Le lieutenant-gouverneur en conseil, sur la recommandation du procureur général, désigne chaque juge de paix nommé après l'entrée en vigueur de la présente loi à titre de juge de paix-président ou juge de paix non-président. Juge de paix-président ou non-président

(2) Sont réputées avoir été désignées à titre de juges de paix-présidents les personnes, à l'exception de celles auxquelles s'applique l'article 5, qui sont des juges de paix autorisés à présider le procès relatif à une infraction décrite à l'alinéa 16 c) (infractions provinciales) immédiatement avant l'entrée Désignation réputée

Designation
of other
justices

(3) The Lieutenant Governor in Council, on the recommendation of the Review Council, may designate any other justice of the peace who is appointed before this Act comes into force and has not attained the age of seventy as a presiding justice of the peace or a non-presiding justice of the peace.

Undesignated
justices

(4) A person appointed as a justice of the peace before this Act comes into force who is not designated under subsection (2) or (3) shall not exercise any authority or receive any remuneration as a justice of the peace.

Change of
designation

(5) The Lieutenant Governor in Council shall not change the designation of a presiding justice of the peace to that of non-presiding justice of the peace.

Justice who
is Ontario
public
servant

5.—(1) A justice of the peace who is employed in the public service of Ontario,

- (a) shall not be designated as a presiding justice of the peace;
- (b) is not entitled to any remuneration under section 18; and
- (c) ceases to be a justice of the peace when he or she ceases to be employed in the public service.

Idem, others

(2) Subsection (1) applies with necessary modifications to justices of the peace who are employed in the public service of Canada or by a municipality, including a metropolitan, regional or district municipality or the County of Oxford, or who are clerks or bailiffs of the Provincial Court (Civil Division).

Justices of
the peace, *ex*
officio

6. Every judge of the Supreme Court of Canada, the Federal Court of Canada, the Supreme Court of Ontario and the District Court of Ontario and every provincial judge is by virtue of his or her office a justice of the peace and also has power to do alone whatever two or more justices of the peace are authorized to do together.

Retirement

7. Every justice of the peace shall retire upon attaining the age of seventy years.

Resignation

8.—(1) A justice of the peace may resign from his or her office by delivering a signed letter of resignation to the Attorney General.

en vigueur de la présente loi et qui n'ont pas, à ce moment, atteint l'âge de soixante-dix ans.

(3) Le lieutenant-gouverneur en conseil, sur la recommandation du Conseil d'évaluation, peut désigner d'autres juges de paix nommés avant l'entrée en vigueur de la présente loi et qui n'ont pas atteint l'âge de soixante-dix ans à titre de juges de paix-présidents ou non-présidents.

Désignation
d'autres juges
de paix

(4) La personne qui a été nommée juge de paix avant l'entrée en vigueur de la présente loi, mais qui n'est pas désignée aux termes du paragraphe (2) ou (3), n'exerce aucune compétence d'un juge de paix et ne reçoit aucune rémunération à ce titre.

Juges de paix
non désignés

(5) Le lieutenant-gouverneur en conseil ne change pas la désignation du juge de paix-président en celle de juge de paix non-président.

Changement
de la
désignation

5 (1) Le juge de paix qui est employé dans la fonction publique de l'Ontario :

Juge de paix
qui est
fonctionnaire
de l'Ontario

- a) n'est pas désigné à titre de juge de paix-président;
- b) n'a pas droit à la rémunération visée à l'article 18;
- c) cesse d'être juge de paix lorsqu'il cesse d'être employé dans la fonction publique.

(2) Le paragraphe (1) s'applique, avec les adaptations nécessaires, aux juges de paix qui sont employés dans la fonction publique du Canada ou par une municipalité, y compris une municipalité régionale, de district ou de communauté urbaine ou le comté d'Oxford, ou qui sont des greffiers ou des huissiers de la Cour provinciale (Division civile).

Idem, autres

6 Sont juges de paix d'office les juges de la Cour suprême du Canada, de la Cour fédérale du Canada, de la Cour suprême de l'Ontario et de la Cour de district de l'Ontario, ainsi que les juges des cours provinciales. En outre, chacun d'eux a le pouvoir d'accomplir seul les actes que deux ou plusieurs juges de paix sont autorisés à accomplir ensemble.

Juges de paix
d'office

7 Le juge de paix prend sa retraite à l'âge de soixante-dix ans.

Retraite

8 (1) Le juge de paix peut démissionner en remettant au procureur général une lettre signée à cet effet.

Démission

Effective
date

(2) The resignation takes effect on the day the letter is delivered to the Attorney General or, if the letter specifies a later day, on that day.

Removal
from office

9.—(1) A justice of the peace may be removed from office only by order of the Lieutenant Governor in Council.

Grounds for
removal

(2) The order may be made only if,

- (a) a complaint regarding the justice of the peace has been made to the Review Council; and
- (b) the removal is recommended, following an inquiry held under section 13, on the ground that the justice of the peace has become incapacitated or disabled from the due execution of his or her office by reason of,
 - (i) infirmity,
 - (ii) conduct that is incompatible with the execution of the duties of his or her office, or
 - (iii) having failed to perform the duties of his or her office as assigned.

Order to be
tabled

(3) The order shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session.

Review
Council

10.—(1) The Justices of the Peace Review Council is continued and shall be composed of,

- (a) the Chief Judge of the Provincial Court (Criminal Division) who shall preside over the Review Council;
- (b) the Chief Judge of the Provincial Court (Family Division);
- (c) the Co-ordinator;
- (d) a justice of the peace appointed by the Lieutenant Governor in Council; and
- (e) not more than two other persons appointed by the Lieutenant Governor in Council.

(2) La démission prend effet le jour où elle est remise au procureur général ou, si la lettre de démission précise un jour postérieur, elle prend effet ce jour.

Date de prise
d'effet

9 (1) Le juge de paix ne peut être destitué que par décret du lieutenant-gouverneur en conseil.

Destitution

(2) Le décret ne peut être pris que si :

Motifs
permettant
la destitution

- a) une plainte à son sujet a été portée au Conseil d'évaluation;
- b) sa destitution est recommandée, à la suite d'une enquête tenue aux termes de l'article 13, en raison du fait qu'il est devenu incapable de remplir convenablement ses fonctions ou inhabile pour l'une des raisons suivantes :
 - (i) il souffre d'une infirmité,
 - (ii) sa conduite est incompatible avec l'exercice de ses fonctions,
 - (iii) il n'a pas rempli les fonctions qui lui sont assignées.

(3) Le décret est déposé devant l'Assemblée législative si elle siège, sinon, dans les quinze jours qui suivent le début de la session suivante.

Dépôt du
décret

10 (1) Le Conseil d'évaluation des juges de paix est maintenu en fonction et se compose des membres suivants :

Conseil
d'évaluation

- a) le juge en chef de la Cour provinciale (Division criminelle), qui préside le Conseil;
- b) le juge en chef de la Cour provinciale (Division de la famille);
- c) le coordonnateur;
- d) un juge de paix nommé par le lieutenant-gouverneur en conseil;
- e) deux autres personnes, au plus, nommées par le lieutenant-gouverneur en conseil.

- Quorum (2) A majority of members of the Review Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Review Council.
- Staff
R.S.O. 1980,
c. 418 (3) Such officers and employees of the Review Council as are considered necessary may be appointed under the *Public Service Act*.
- Expert assistance (4) The Review Council may engage persons, including counsel, to assist it in its investigations.
- Functions **11.**—(1) The functions of the Review Council are,
(a) to consider all proposed appointments and designations of justices of the peace and make reports concerning them to the Attorney General;
(b) to receive and investigate complaints against justices of the peace.
- Liability for damages (2) No action or other proceeding for damages shall be instituted against the Review Council or its members or officers or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty.
- Investigation of complaints **12.**—(1) When the Review Council receives a complaint against a justice of the peace, it shall take such action to investigate the complaint, including a review of it with the justice of the peace, as it considers advisable.
- Referral to Co-ordinator (2) The Review Council may, if it considers it appropriate to do so, transmit complaints to the Co-ordinator.
- Proceedings not public (3) The proceedings of the Review Council shall not be public, but it may inform the Attorney General that it has undertaken an investigation and the Attorney General may make that fact public.
- Prohibiting publication (4) The Review Council may order that information or documents relating to its investigation not be published or disclosed except as required by law.
- Powers
R.S.O. 1980,
c. 411 (5) The Review Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.
- Notice of disposition (6) When the Review Council has dealt with a complaint regarding a justice of the peace, it shall inform,

(2) La majorité des membres du Conseil d'évaluation constitue le quorum et peut exercer les pouvoirs et la compétence du Conseil. Quorum

(3) Les employés du Conseil jugés nécessaires peuvent être engagés aux termes de la *Loi sur la fonction publique*. Personnel
L.R.O. 1980,
chap. 418

(4) Le Conseil d'évaluation peut engager d'autres personnes, notamment des avocats, pour l'aider dans ses enquêtes. Experts

11 (1) Les fonctions du Conseil d'évaluation sont les suivantes : Fonctions

a) examiner les candidatures aux postes de juges de paix, ainsi que leurs désignations proposées, et en faire rapport au procureur général;

b) recevoir les plaintes portées contre les juges de paix et faire enquête à leur sujet.

(2) Aucune action ou poursuite en dommages-intérêts ne peut être intentée contre le Conseil d'évaluation, ses membres ou employés ni contre quiconque agit sous son autorité, à l'égard d'un acte accompli de bonne foi dans l'exercice ou en vue de l'exercice de ses fonctions. Responsabilité
pour domma-
ges-intérêts

12 (1) Lorsque le Conseil d'évaluation reçoit une plainte contre un juge de paix, il prend les mesures qu'il estime opportunes pour faire enquête. Ces mesures peuvent comprendre une discussion de la plainte avec le juge de paix. Enquête sur
les plaintes

(2) Le Conseil d'évaluation peut, s'il le juge opportun, transmettre des plaintes au coordonnateur. Plaintes
transmises au
coordonnateur

(3) Les enquêtes sont tenues à huis clos, mais le Conseil d'évaluation peut aviser le procureur général qu'il a entrepris une enquête. Le procureur général peut informer le public de ce fait. Huis clos

(4) Le Conseil d'évaluation peut ordonner que des renseignements ou des documents qui portent sur l'enquête ne soient ni publiés ni divulgués, sauf dans la mesure exigée par la loi. Publication
interdite

(5) Le Conseil d'évaluation possède les pouvoirs d'une commission aux termes de la partie II de la *Loi sur les enquêtes publiques*. Cette partie s'applique à l'enquête du Conseil comme si elle était tenue en vertu de cette loi. Pouvoirs
L.R.O. 1980,
chap. 411

(6) Lorsque le Conseil d'évaluation a traité d'une plainte relative à un juge de paix, il avise de la décision prise à l'égard de la plainte : Avis de la
décision

- (a) the person who made the complaint; and
- (b) the justice of the peace, if the complaint was brought to his or her attention,

of its disposition of the complaint.

Report and
recommen-
dations

(7) The Review Council may report its opinion regarding the complaint to the Attorney General and may recommend,

- (a) that an inquiry be held under section 13;
- (b) that the justice of the peace be compensated for all or part of his or her costs in connection with the investigation.

Copy to
justice

(8) A copy of the report shall be given to the justice of the peace.

Right to be
heard

(9) The Review Council shall not make a report unless the justice of the peace was notified of the investigation and given an opportunity to be heard and to produce evidence.

Publication
of report

(10) The Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so.

Transition
R.S.O. 1980,
c. 227

(11) An investigation commenced under section 8 of the *Justices of the Peace Act* but not completed before this Act comes into force shall be continued in accordance with this Act by the Review Council as constituted under that section.

Inquiry

13.—(1) The Lieutenant Governor in Council may appoint a provincial judge to inquire into the question of whether a justice of the peace should be removed from office.

Powers
R.S.O. 1980,
c. 411
Report

(2) The *Public Inquiries Act* applies to the inquiry.

(3) The report of the inquiry may recommend,

- (a) that the justice of the peace be removed from office;
- (b) that the justice of the peace be compensated for all or part of his or her costs in connection with the inquiry.

- a) la personne qui a porté plainte;
- b) le juge de paix, si la plainte a été portée à son attention.

(7) Le Conseil d'évaluation peut faire rapport au procureur général de son opinion à l'égard de la plainte et recommander :

Rapport et recommandations

- a) qu'une enquête soit tenue aux termes de l'article 13;
- b) que le juge de paix soit indemnisé, en tout ou en partie, des dépens que lui a occasionnés l'enquête.

(8) Une copie du rapport est remise au juge de paix.

Copie au juge de paix

(9) Le Conseil d'évaluation ne fait pas de rapport s'il n'a pas avisé le juge de paix de la tenue de l'enquête et ne lui a pas fourni l'occasion de se faire entendre et de présenter des preuves.

Droit de se faire entendre

(10) Le procureur général peut publier le rapport, en tout ou en partie, s'il le juge dans l'intérêt public.

Publication du rapport

(11) L'enquête commencée en vertu de l'article 8 de la *Loi sur les juges de paix* et qui n'a pas été terminée avant l'entrée en vigueur de la présente loi est continuée, conformément à la présente loi, par le Conseil d'évaluation tel qu'il est constitué aux termes de cet article.

Disposition transitoire
L.R.O. 1980, chap. 227

13 (1) Le lieutenant-gouverneur en conseil peut charger un juge d'une cour provinciale de faire enquête afin de déterminer si un juge de paix devrait être destitué.

Enquête

(2) La *Loi sur les enquêtes publiques* s'applique à l'enquête.

Pouvoirs
L.R.O. 1980, chap. 411
Rapport

(3) Le rapport de l'enquête peut recommander :

- a) que le juge de paix soit destitué de ses fonctions;
- b) que le juge soit indemnisé, en tout ou en partie, des dépens que lui a occasionnés l'enquête.

Tabling of
report

(4) The report shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session.

Co-ordinator
appointed

14.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, shall appoint a provincial judge as Co-ordinator of Justices of the Peace.

Co-ordinator
to supervise
justices,
assign duties

(2) The Co-ordinator has general supervision and direction over sittings of justices of the peace and the assignment of their duties, subject to the direction of the Chief Judge of the Provincial Court (Criminal Division) or, in matters relating to the jurisdiction of the Provincial Court (Family Division), the Chief Judge of that court.

Idem

(3) The Co-ordinator's authority to assign duties includes authority to direct the times and places that justices of the peace shall perform their duties.

Part-time
justices to
follow duty
roster

(4) A part-time justice of the peace shall not act as a justice of the peace except in accordance with a duty roster established by the Co-ordinator.

Duty rosters
public

(5) The duty rosters shall be made available to the public.

Reports on
duties
performed

(6) Part-time justices of the peace shall submit to the Co-ordinator, when required by the Co-ordinator, reports containing the prescribed information on the duties they have performed.

Assistance to
Co-ordinator

(7) Provincial judges shall assist the Co-ordinator in the supervision of justices and assignment of their duties and in the exercise of the Co-ordinator's other functions under this section, if the Co-ordinator or a chief judge so requests, and for the purpose they have the Co-ordinator's authority.

Assignment
of duties to
presiding
justice

15.—(1) The following duties shall not be assigned to a presiding justice of the peace:

- (a) presiding at the trial of an offence under the *Criminal Code* (Canada);
- (b) presiding at the trial of an offence under any other Act of the Parliament of Canada, unless the offence is prescribed as an offence to the trial of which a presiding justice of the peace may be assigned;
- (c) holding a preliminary inquiry under Part XV of the *Criminal Code* (Canada);

(4) Le rapport est déposé devant l'Assemblée législative si elle siège, sinon, dans les quinze jours qui suivent le début de la session suivante.

Dépôt du rapport

14 (1) Le lieutenant-gouverneur en conseil, sur la recommandation du procureur général, nomme un juge d'une cour provinciale en tant que coordonnateur des juges de paix.

Nomination du coordonnateur

(2) Le coordonnateur est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions. Ceci, sous réserve de la direction du juge en chef de la Cour provinciale (Division criminelle) ou, en ce qui concerne la compétence de la Cour provinciale (Division de la famille), du juge en chef de ce tribunal.

Surveillance, etc., par le coordonnateur

(3) Le pouvoir du coordonnateur en ce qui concerne l'assignation des fonctions des juges de paix comprend le pouvoir de fixer la date, l'heure et le lieu où ces fonctions seront exercées.

Idem

(4) Le juge de paix à temps partiel n'exerce les fonctions d'un juge de paix qu'en conformité avec un tableau de service établi par le coordonnateur.

Tableau de service

(5) Les tableaux de service sont mis à la disposition des membres du public.

Tableaux de service accessibles au public

(6) Les juges de paix à temps partiel soumettent au coordonnateur, à sa demande, des rapports qui comprennent les renseignements prescrits au sujet des fonctions qu'ils ont remplies.

Rapport

(7) Les juges des cours provinciales prêtent leur aide au coordonnateur, en ce qui concerne la surveillance des juges de paix et l'assignation de leurs fonctions, et dans l'exercice des autres compétences du coordonnateur visées au présent article, à la demande du coordonnateur ou d'un juge en chef. À cette fin, ils disposent des mêmes pouvoirs que le coordonnateur.

Aide au coordonnateur

15 (1) Les fonctions suivantes ne sont pas assignées au juge de paix-président :

Assignation des fonctions au juge de paix-président

a) présider le procès relatif à une infraction visée au *Code criminel* (Canada);

S.R.C. 1970, chap. C-34

b) présider le procès relatif à une infraction visée à une autre loi du Parlement du Canada, à moins que l'infraction n'ait été prescrite comme étant une infraction dont un juge de paix-président peut être affecté à présider le procès qui y est relatif;

c) tenir une enquête préliminaire aux termes de la partie XV du *Code criminel* (Canada);

R.S.C. 1970,
c. C-34

- (d) exercising jurisdiction under the *Criminal Code* (Canada) in respect of an accused if the question of the accused's capability to conduct a defence or fitness to stand trial is raised;
- (e) exercising jurisdiction under section 68 (reading proclamation at riot) or section 471 (remand where offence committed in another jurisdiction) of the *Criminal Code* (Canada).

Exception

- (2) Subsection (1) does not apply to adjournments.

Assignment
of duties to
non-presiding
justice

16. The following duties shall not be assigned to a non-presiding justice of the peace:

- (a) the duties described in section 15;
- (b) presiding at the trial of an offence that is prescribed as one to the trial of which a presiding justice of the peace may be assigned;
- (c) presiding at the trial of an offence under an Act of the Legislature or under a regulation or by-law made under the authority of such an Act;
- (d) exercising jurisdiction under section 9 or 19 of the *Provincial Offences Act* (default conviction);
- (e) presiding at a hearing to determine whether a person should be released from or detained in custody;
- (f) exercising authority to issue a warrant to levy a tax, toll or dues under,

R.S.C. 1970,
c. P-38

- (i) section 32 of the *Public Works Act* (Canada),

R.S.O. 1980,
c. 229

- (ii) section 66 of the *Lakes and Rivers Improvement Act*, or

R.S.O. 1980,
c. 302

- (iii) subsection 387 (6) of the *Municipal Act*;

- (g) determining whether a thing should be forfeited or held under,

- d) exercer une compétence visée au *Code criminel* (Canada) à l'égard d'un accusé, si la question de son aptitude de conduire sa défense ou de sa capacité de subir son procès est soulevée; S.R.C. 1970, chap. C-34
- e) exercer les compétences visées à l'article 68 du *Code criminel* (Canada) (proclamation lors d'une émeute) et à l'article 471 de cette loi (renvoi lorsque l'infraction a été commise dans une autre juridiction).

(2) Le paragraphe (1) ne s'applique pas aux ajournements. Exception

16 Les fonctions suivantes ne sont pas assignées au juge de paix non-président : Assignation des fonctions au juge de paix non-président

- a) les fonctions décrites à l'article 15;
- b) présider le procès relatif à une infraction qui est prescrite comme étant une infraction dont un juge de paix-président peut être affecté à présider le procès qui y est relatif;
- c) présider le procès relatif à une infraction visée à une loi de la Législature, ou à un règlement pris en application d'une telle loi;
- d) exercer une compétence en vertu de l'article 9 ou 19 de la *Loi sur les infractions provinciales* (reconnaissance de culpabilité en l'absence du défendeur); L.R.O. 1980, chap. 400
- e) présider une audience pour décider si une personne devrait être détenue sous garde ou libérée;
- f) exercer le pouvoir de décerner des mandats afin de percevoir des impôts, des droits ou des péages en vertu des dispositions suivantes :
 - (i) l'article 32 de la *Loi sur les travaux publics* (Canada), S.R.C. 1970, chap. P-38
 - (ii) l'article 66 de la *Loi sur l'aménagement des lacs et des rivières*, L.R.O. 1980, chap. 229
 - (iii) le paragraphe 387 (6) de la *Loi sur les municipalités*; L.R.O. 1980, chap. 302
- g) décider si des choses doivent être confisquées ou détenues en vertu des dispositions suivantes :

R.S.C. 1970,
c. M-12

(i) section 7 of the *Migratory Birds Convention Act* (Canada), or

R.S.C. 1970,
c. N-13

(ii) subsection 8 (3) of the *National Parks Act* (Canada);

R.S.O. 1980,
c. 262

(h) determining whether an order should be issued under section 10 of the *Mental Health Act* (examination by physician);

(i) presiding at a hearing to determine a dispute under,

R.S.C. 1970,
c. S-9

(i) section 207 of the *Canada Shipping Act*,

R.S.C. 1970,
c. F-14

(ii) section 11 of the *Fisheries Act* (Canada),

R.S.O. 1980,
c. 257

(iii) section 4 of the *Master and Servant Act*, or

R.S.O. 1980,
c. 372

(iv) section 25, 26 or 27 of the *Pawnbrokers Act*;

(j) a duty that is prescribed as one that shall not be assigned to a non-presiding justice.

Jurisdiction
of justices

17.—(1) Justices of the peace have jurisdiction throughout Ontario.

Idem

(2) Subject to sections 15 and 16, justices of the peace shall exercise the powers and perform the duties conferred or imposed on a justice of the peace by or under an Act of the Legislature or of the Parliament of Canada.

Justice to
assist public

(3) Justices of the peace shall assist members of the public, at their request, in formulating informations in respect of offences.

Justices to
perform
duties

(4) Justices of the peace shall perform the duties assigned to them under this Act.

Salary of
part-time
justices

18. The salary, if any, to which each part-time justice of the peace is entitled shall be based on the Co-ordinator's determination of the justice's workload and calculated in accordance with the regulations.

- (i) l'article 7 de la *Loi sur la Convention concernant les oiseaux migrateurs* (Canada), S.R.C. 1970, chap. M-12
- (ii) le paragraphe 8 (3) de la *Loi sur les parcs nationaux* (Canada); S.R.C. 1970, chap. N-13
- h) décider si une ordonnance doit être rendue en vertu de l'article 10 de la *Loi sur la santé mentale* (examen par un médecin); L.R.O. 1980, chap. 262
- i) présider des audiences en vue de régler des différends en vertu des dispositions suivantes :
 - (i) l'article 207 de la *Loi sur la marine marchande du Canada*, S.R.C. 1970, chap. S-9
 - (ii) l'article 11 de la *Loi sur les pêcheries* (Canada), S.R.C. 1970, chap. F-14
 - (iii) l'article 4 de la *Loi sur le louage de services*, L.R.O. 1980, chap. 257
 - (iv) les articles 25, 26 et 27 de la *Loi sur le prêt sur gage*; L.R.O. 1980, chap. 372
- j) exercer les fonctions qui ont été prescrites comme étant des fonctions qui ne sont pas assignées au juge de paix non-président.

17 (1) Les juges de paix ont compétence dans tout l'Ontario. Compétence des juges de paix

(2) Sous réserve des articles 15 et 16, les juges de paix exercent les pouvoirs et remplissent les fonctions que leur confère une loi de la Législature ou du Parlement du Canada ou qui leur sont conférées en vertu d'une telle loi. Idem

(3) Les juges de paix prêtent leur aide aux membres du public, lorsque ces derniers le demandent, en ce qui concerne la formulation des dénonciations. Aide au public

(4) Les juges de paix remplissent les fonctions qui leur sont assignées en vertu de la présente loi. Les juges de paix remplissent leurs fonctions

18 Les traitements, le cas échéant, auxquels ont droit les juges de paix à temps partiel correspondent à l'évaluation de leurs charges de travail que fait le coordonnateur. Les traitements sont calculés conformément aux règlements. Traitements des juges de paix à temps partiel

Directions

19.—(1) The Co-ordinator may issue directions to justices of the peace on questions of law and procedure.

Directions
binding on
justices

(2) Justices of the peace shall follow a direction issued under subsection (1) unless it has been disapproved by a court on an appeal or a review.

Directions to
be published

(3) The Co-ordinator shall cause the directions to be published in *The Ontario Gazette*.

Immunity
from liability

20. A justice of the peace has the same immunity from liability as a judge of the Supreme Court.

Regulations

21.—(1) The Lieutenant Governor in Council may make regulations,

R.S.C. 1970,
c. C-34

- (a) prescribing offences under Acts of Parliament other than the *Criminal Code* (Canada) in respect of which a presiding justice of the peace may be assigned to preside at a trial;
- (b) prescribing the information to be included in reports under subsection 14 (6);
- (c) prescribing the salaries of full-time justices of the peace and prescribing the manner in which the salaries of part-time justices of the peace shall be calculated, including the factors to be taken into account and the method of calculation to be used;
- (d) providing for the benefits to which full-time and part-time justices of the peace are entitled;
- (e) providing for the payment of allowances for full-time and part-time justices of the peace;
- (f) prescribing duties that shall not be assigned to a non-presiding justice of the peace.

Idem

(2) A regulation made under clause (1) (e) may be limited territorially and may be general or particular in its application.

Contributions

(3) A regulation made under clause (1) (d) may require justices of the peace to contribute from their salaries part of the cost of a benefit and may fix the amount of the contributions.

19 (1) Le coordonnateur peut donner aux juges de paix des directives portant sur des questions de droit et de procédure. Directives

(2) Les juges de paix suivent la directive donnée aux termes du paragraphe (1), à moins qu'elle n'ait été désapprouvée par le tribunal lors d'un appel ou d'une révision. Effet sur les juges de paix

(3) Le coordonnateur fait publier les directives dans la *Gazette de l'Ontario*. Publication des directives

20 Le juge de paix jouit de la même immunité qu'un juge de la Cour suprême en ce qui concerne la responsabilité personnelle. Immunité

21 (1) Le lieutenant-gouverneur en conseil peut, par règlement : Règlements

- a) prescrire des infractions visées aux lois du Parlement du Canada, à l'exclusion du *Code criminel* (Canada), dont un juge de paix-président peut être affecté au procès qui y est relatif; S.R.C. 1970, chap. C-34
- b) prescrire les renseignements qui doivent figurer dans les rapports visés au paragraphe 14 (6);
- c) prescrire les traitements des juges de paix à temps plein et prescrire les modalités selon lesquelles sont calculés les traitements des juges de paix à temps partiel, y compris les facteurs dont il est tenu compte et la méthode de calcul utilisée;
- d) prévoir les avantages sociaux auxquels ont droit les juges de paix à temps plein et à temps partiel;
- e) prévoir le versement d'allocations aux juges de paix à temps plein et à temps partiel;
- f) prescrire les fonctions qui ne sont pas assignées au juge de paix non-président.

(2) Un règlement pris en application de l'alinéa (1) e) peut être assujéti à des limitations territoriales et peut avoir une portée générale ou particulière. Idem

(3) Un règlement pris en application de l'alinéa (1) d) peut exiger que soient prélevées sur les traitements des juges de paix des cotisations qui couvrent une partie du coût d'un avantage social. Ce règlement peut également fixer le montant des cotisations. Cotisations

22.—(1) Section 2 of the *Commissioners for taking Affidavits Act*, being chapter 75 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

Provincial
judges,
justices of
the peace

(1a) Every provincial judge and every justice of the peace is *ex officio* a commissioner for taking affidavits in Ontario.

(2) Section 13 of the said Act is amended by striking out “notary public or justice of the peace” in the third line and inserting in lieu thereof “or notary public”.

23. Subsection 61 (3) of the *Courts of Justice Act, 1984*, being chapter 11, is repealed.

24. Paragraph 1 of subsection 5 (1) of the *Election Act, 1984*, being chapter 54, is amended by adding at the end thereof “or justices of the peace”.

25. The *Justices of the Peace Act*, being chapter 227 of the Revised Statutes of Ontario, 1980, the *Justices of the Peace Amendment Act, 1984*, being chapter 8 and section 22 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64, are repealed.

26. Clause 8 (2) (c) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is amended by striking out “justice of the peace” in the first line.

27. Subsection 13 (1) of the *Mining Act*, being chapter 268 of the Revised Statutes of Ontario, 1980, is repealed.

28.—(1) Sections 1, 2, 3 and 5 and subsection 6 (1) of the *Public Authorities Protection Act*, being chapter 406 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 7 (1) of the said Act is amended by striking out “against the justice of the peace who made the conviction or” in the second and third lines.

Commence-
ment

29. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

30. The short title of this Act is the *Justices of the Peace Act, 1987*.

22 (1) L'article 2 de la *Loi sur les commissaires aux affidavits*, qui constitue le chapitre 75 des Lois refondues de l'Ontario de 1980, est modifié par adjonction du paragraphe suivant :

(1a) Every provincial judge and every justice of the peace is *ex officio* a commissioner for taking affidavits in Ontario.* Provincial judges, justices of the peace

(2) L'article 13 de cette loi est modifié par substitution, à «notary public or justice of the peace» à la troisième ligne, de «or notary public».

23 Le paragraphe 61 (3) de la *Loi de 1984 sur les tribunaux judiciaires*, qui constitue le chapitre 11, est abrogé.

24 La disposition 1 du paragraphe 5 (1) de la *Loi électorale de 1984*, qui constitue le chapitre 54, est modifiée par adjonction de «or justices of the peace».

25 La *Loi sur les juges de paix*, qui constitue le chapitre 227 des Lois refondues de l'Ontario de 1980, la *Loi de 1984 modifiant la Loi sur les juges de paix*, qui constitue le chapitre 8 et l'article 22 de la *Loi de 1986 modifiant des lois concernant les droits à l'égalité*, qui constitue le chapitre 64, sont abrogés.

26 L'alinéa 8 (2) c) de la *Loi sur l'Assemblée législative*, qui constitue le chapitre 235 des Lois refondues de l'Ontario de 1980, est modifié par suppression des mots «justice of the peace» à la première ligne.

27 Le paragraphe 13 (1) de la *Loi sur les mines*, qui constitue le chapitre 268 des Lois refondues de l'Ontario de 1980, est abrogé.

28 (1) Les articles 1, 2, 3 et 5 et le paragraphe 6 (1) de la *Loi sur l'immunité des personnes publiques*, qui constitue le chapitre 406 des Lois refondues de l'Ontario de 1980, sont abrogés.

(2) Le paragraphe 7 (1) de cette loi est modifié par suppression des mots «against the justice of the peace who made the conviction or» aux deuxième et troisième lignes.

29 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en vigueur

30 Le titre abrégé de la présente loi est *Loi de 1987 sur les juges de paix*. Titre abrégé

*Les lois modifiées n'ayant été promulguées qu'en anglais, il n'existe pas de texte français exigeant une modification législative.

Because the amended statutes were enacted only in English, there is no French text to amend.

Bill 25

An Act to amend the Wine Content Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations

1st Reading May 6th, 1987

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

Subsection 1 (2) of the Act prohibits wine manufacturers from using imported grapes or wine in the manufacture of wine after the 31st day of August, 1987. This date is being changed to 1988.

Bill 25

1987

An Act to amend the Wine Content Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (2) of the *Wine Content Act*, being chapter 534 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 2, section 1 and 1986, chapter 32, section 1, is further amended by striking out “1987” in the amendment of 1986 and inserting in lieu thereof “1988”.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Wine Content Amendment Act, 1987*. Short title

Bill 25

*(Chapter 24
Statutes of Ontario, 1987)*

An Act to amend the Wine Content Act

The Hon. M. Kwinter
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	May 6th, 1987
<i>2nd Reading</i>	June 2nd, 1987
<i>3rd Reading</i>	June 4th, 1987
<i>Royal Assent</i>	June 29th, 1987

Bill 25**1987****An Act to amend the Wine Content Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (2) of the *Wine Content Act*, being chapter 534 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 2, section 1 and 1986, chapter 32, section 1, is further amended by striking out “1987” in the amendment of 1986 and inserting in lieu thereof “1988”.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Wine Content Amendment Act, 1987*. Short title

Bill 26

An Act to amend the Residential Rent Regulation Act, 1986

Ms Bryden

1st Reading May 6th, 1987

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to amend the exemption provision in clause 4 (3) (a) of the Act in order to eliminate the exemption for buildings operated or administered but not owned by the Government of Canada or any agency thereof.

Bill 26**1987**

**An Act to amend the
Residential Rent Regulation Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 4 (3) (a) of the *Residential Rent Regulation Act, 1986*, being chapter 63, is repealed and the following substituted therefor:

- (a) a rental unit situate in a residential complex owned by the Government of Canada or owned, operated or administered by or on behalf of the Government of Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, except where otherwise prescribed, but where the tenant occupying the rental unit pays rent to a landlord which is not the Government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof, this Act does apply.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Residential Rent Regulation Amendment Act, 1987*. Short title

Bill 27

An Act to amend the Public Vehicles Act

Mr. Mackenzie

1st Reading May 6th, 1987
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The Bill would prohibit passengers from occupying the part of a bus or streetcar to the immediate right of the driver's seat after the driver has asked them to clear that area.

Bill 27

1987

An Act to amend the Public Vehicles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 23 of the *Public Vehicles Act*, being chapter 425 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(4) No person other than the driver or operator shall occupy any portion of a bus or streetcar, both as defined in the *Highway Traffic Act*, forward of the back of the driver's or operator's seat after the driver or operator has requested passengers to clear that portion of the bus or streetcar.

No
obstruction
of driver's
view
R.S.O. 1980,
c. 198

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Public Vehicles Amendment Act, 1987*.

Short title

Bill 28

An Act to amend the Labour Relations Act

Mr. Mackenzie

1st Reading May 6th, 1987
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to clarify that the *Labour Relations Act* applies to employees who are engaged in agricultural employment in an industrial or factory setting. Clause 2 (b) of the Act currently states that the Act does not apply "to a person employed in agriculture". This provision has been interpreted broadly by the Ontario Labour Relations Board to exclude from the Act persons whose employment relates to agriculture but who are employed in organizations that resemble industrial plants.

Bill 28**1987****An Act to amend the Labour Relations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 2 (b) of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (b) to a person employed in agriculture on a farm by a person who is a farmer;
- (ba) to a person employed in hunting or trapping.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Labour Relations Amendment Act, 1987*. Short title

Bill 29

An Act to amend the Employment Standards Act

Mr. Mackenzie

1st Reading May 6th, 1987

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

SECTION 1. The proposed new section 29 increases the vacation period to which an employee is entitled under the Act. Currently, the Act provides a two week vacation period for each employee that does not vary with the amount of employment service.

SECTION 2. The proposed amendment is complementary to section 1 of the Bill. Subsection 30 (1) of the Act as it currently reads is set out below with the amended portions underlined:

(1) The employer shall determine the period when an employee may take the vacation to which he is entitled under section 29, which may be a two week period or two periods of one week each, but in any case the employee shall be given his vacation not later than ten months after the end of the twelve month period for which the vacation was given.

SECTION 3. The proposed amendment is complementary to section 1 of the Bill. Section 31 of the Act as it currently reads is set out below with the amended portions underlined:

31. Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay pursuant to section 29, the employer shall pay to the employee an amount equal to 4 per cent of the wages of the employee in any twelve month period or periods or part thereof and in calculating wages no account shall be taken of any vacation pay previously paid.

Bill 29

1987

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 29 of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

29.—(1) Every employer shall give to each employee a ^{Vacations} vacation with pay of at least,

- (a) two weeks in each year upon the completion of twelve months of employment;
- (b) three weeks in each year upon the completion of sixty months of employment;
- (c) four weeks in each year upon the completion of 120 months of employment; and
- (d) five weeks in each year upon the completion of 240 months of employment.

(2) The amount of pay for a vacation shall be not less than ^{Idem} an amount equal to 2 per cent of the annual wages of the employee for each week of vacation to which the employee is entitled under subsection (1) and in calculating wages no account shall be taken of any vacation pay previously paid.

2. Subsection 30 (1) of the said Act is repealed and the following substituted therefor:

(1) The employer shall determine the period when an employee may take the vacation to which he or she is entitled under section 29, which may be a consecutive period or periods of one week each, but in any case the employee shall be given his or her vacation not later than six months after the end of the twelve month period for which the vacation was given. ^{When vacation to be taken}

3. Section 31 of the said Act is repealed and the following substituted therefor:

Vacation
pay

31. Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay under section 29, the employer shall pay to the employee an amount equal to 2 per cent of the annual wages of the employee for each week of vacation to which the employee is entitled under section 29, and in calculating wages no account shall be taken of any vacation pay previously paid.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Employment Standards Amendment Act, 1987*.

Bill 30

An Act to amend the Labour Relations Act

Mr. Mackenzie

1st Reading May 6th, 1987
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to repeal a provision of the Act that prohibits the inclusion of security guards in a bargaining unit. The repeal of this provision would permit security guards to join or establish an association or union for collective bargaining purposes.

Bill 30**1987****An Act to amend the Labour Relations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 12 of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is repealed.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Labour Relations Amendment Act, 1987*. Short title

Bill 31

An Act to amend the Labour Relations Act

Mr. Mackenzie

1st Reading May 6th, 1987

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to prevent the hiring of strikebreakers and to control access to a work premises that is affected by a strike or lock-out. The Bill prohibits an employer from hiring or using the services of a person to do the work of an employee who is on strike or locked out unless that person is specifically authorized to do so. Similarly, when a picket line is established at a place of access to a work premises, access is limited to persons specifically authorized by the Bill. The Bill repeals a provision of the Act dealing with professional strikebreakers and strike-related misconduct.

Bill 31

1987

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

67a.—(1) In this section,

Definitions

“employer” includes an employers’ organization and a person acting on behalf of an employer or an employers’ organization;

“legal picket line” means a moving formation of two or more persons who are members of a certified bargaining unit and who by means of signs or posters give notice that the certified bargaining unit is on strike or locked out.

(2) No employer shall employ or use the services of any person to perform the work of an employee who is exercising a legal right to strike or who is locked out unless,

Unlawful
employment

(a) the person ordinarily exercises managerial or supervisory functions and was a full-time employee of the employer on the day the strike or lock-out commenced; or

(b) the person is authorized to perform the work by agreement between the employer and representatives of the certified bargaining unit that is on strike or locked out.

(3) Where a legal picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, no person shall enter the premises unless,

Unlawful
entry

(a) the person ordinarily exercises managerial and supervisory functions;

- (b) the person is a member of a certified bargaining unit that is not on strike or locked out and is not engaged in performing the work of an employee who is on strike or locked out;
- (c) the person is a non-union employee who was a full-time employee of the employer on the day the strike or lock-out was commenced and is not engaged in performing the work of an employee who is on strike or locked out;
- (d) the person requires access to the work premises for the purpose of providing emergency services;
- (e) the person is authorized to enter the work premises by agreement between the employer and representatives of the bargaining unit that is on strike or locked out.

Duty of
police
officer

(4) Where a picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, it is the duty of every police officer stationed at that place to ensure that no person other than a person authorized under subsection (3) enters the work premises.

Trespass

(5) A person who enters the work premises contrary to subsection (3) or who, upon gaining entry, performs work contrary to subsection (2), commits a trespass and is liable to proceedings under the *Trespass to Property Act*.

R.S.O. 1980,
c. 511

2. Section 71a of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 42, section 1, is repealed.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Labour Relations Amendment Act, 1987*.

Bill 32

An Act to amend the Employment Standards Act

Mr. Mackenzie

1st Reading May 6th, 1987
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to require an employer to provide a leave of absence to any employee who has been elected to provincial or municipal office so that the employee may be able to carry out the duties of an elected official.

Bill 32

1987

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART XI-B

ELECTED OFFICIAL LEAVE

39e. No employer shall terminate the employment of or lay off an employee who is entitled to a leave of absence under this Part by reason of that employee being an elected official. Elected official leave

39f.—(1) An employee who has been elected to the Legislative Assembly or to a municipal public office and who has been employed by the employer for a period of three months preceding the date of the election shall be entitled upon application therefor to a leave of absence for the purpose of carrying out his or her duties as an elected official. When leave to be taken

(2) A leave of absence under this Part may be for a continuous period consisting of the whole or a part of the term of office to which the person was elected or for such intermittent periods of time during the day or week as the employee may feel is necessary to fulfil his or her duties as an elected official. Duration of leave

(3) Where a leave of absence is for a continuous period, the employee shall give the employer two weeks notice in writing of the day upon which the employee intends to commence the leave and shall set out in this notice the estimated duration of the leave. Notice

(4) Where a leave of absence is for intermittent periods, the employee shall give to the employer notice in writing prior Idem

to commencing the leave of regular periods of time during the day or week that the employee intends to be on leave, but the employee is entitled to a leave of absence at other times where such leave is necessary for the employee to fulfil his or her duties as an elected official.

Preservation
of seniority

39g.—(1) An employee who intends to resume full-time employment upon ceasing to be an elected official shall so advise the employer, and, upon returning to work, the employer shall reinstate or continue the employee in his or her position or provide alternative work of a comparable nature at not less than the wages of the employee at the time the leave of absence began and without loss of seniority or benefits accrued to the expiration of the term of office other than seniority or benefits accrued during the times that the employee was on leave.

Idem

(2) Where the employer has suspended or discontinued operations during the leave of absence of the employee and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to his or her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time the leave of absence began with no loss of seniority or benefits accrued to the commencement of the leave of absence, and, in the absence of such a system or practice, shall reinstate the employee in accordance with subsection (1).

Employment
standards
officer
may make
order

39h. Where an employer fails to comply with the provisions of this Part, an employment standards officer may order what action, if any, the employer shall take or what he or she shall refrain from doing in order to constitute compliance with this Part and may order what compensation shall be paid by the employer to the Director, in trust, for the employee.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Employment Standards Amendment Act, 1987*.

Bill 33

An Act to amend the Employment Standards Act

Mr. Mackenzie

1st Reading May 6th, 1987
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

The purpose of the Bill is to reduce the standard work week from forty-eight hours to forty hours and to require employers to pay overtime rates for work done in excess of forty hours per week rather than forty-four hours.

The sections of the Act as amended by this Bill are set out below with the amended portions shown underlined.

SECTION 1. Subsection 11 (2), as amended, would read as follows:

(2) Subclause (1) (a) (iii) does not apply in respect of the salaried employees of an employer who perform work of a clerical or administrative nature where the employer makes and keeps a record showing the number of hours worked by such employees in excess of eight hours a day and forty hours a week.

SECTION 2. Section 17, as amended, would read as follows:

17. Except as otherwise provided in this Part, and subject to any schedule in force under the Industrial Standards Act, the hours of work of an employee shall not exceed eight in the day and forty in the week.

SECTION 3. Section 18, as amended, would read as follows:

18. An employer may, with the approval of the Director, and upon such terms and conditions as the Director prescribes, adopt a regular day of work in excess of eight hours but not in excess of twelve hours, provided that the total hours of work of each employee shall not exceed forty hours in a week.

SECTION 4. Subsection 20 (3), as amended, would read as follows:

(3) The issuance of a permit under this section does not require an employee to work any hours in excess of those prescribed by section 17 or approved under section 18 without the consent or agreement of the employee or his agent to hours in excess of eight in the day or forty in the week.

SECTION 5. Subsection 25 (1), as amended, would read as follows:

(1) Except as otherwise provided in the regulations, where an employee works for an employer in excess of forty hours in any week, he shall be paid for each hour worked in excess of forty hours overtime pay at an amount not less than one and one-half times the regular rate of the employee.

Bill 33**1987****An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 11 (2) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by striking out “forty-four” in the fifth line and inserting in lieu thereof “forty”.

2. Section 17 of the said Act is amended by striking out “forty-eight” in the fourth line and inserting in lieu thereof “forty”.

3. Section 18 of the said Act is amended by striking out “forty-eight” in the fifth line and inserting in lieu thereof “forty”.

4. Subsection 20 (3) of the said Act is amended by striking out “forty-eight” in the fifth line and inserting in lieu thereof “forty”.

5. Subsection 25 (1) of the said Act is amended by striking out “forty-four” in the third line and in the fourth line and inserting in lieu thereof in each instance “forty”.

6. This Act comes into force on the day it receives Royal Assent. Commence-
ment

7. The short title of this Act is the *Employment Standards Amendment Act, 1987*. Short title

Bill 34

An Act to provide for Freedom of Information and Protection of Individual Privacy

The Hon. I. Scott
Attorney General



1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill substantially implements the recommendations of the Report of the Commission on Freedom of Information and Individual Privacy (Williams Report).

PART I makes a minister who is to be designated responsible for administration of the Act and establishes the office of Information and Privacy Commissioner. The Commissioner is appointed by the Legislature and the office is set up in a manner similar to the Ombudsman's office.

PART II provides a right of access to government information subject only to specified exemptions. Also provided are the procedure to be followed in seeking access and the manner in which access is to be given. Time limits are imposed on the government for answering a request for access and providing the information. Provision is made for protecting those other persons whose privacy or rights might be affected by release of information. Government institutions are required to make information available to the public including how to request information, how the institution runs, what the institution does and guidelines used by the institution in making various decisions. They are also required to make annual reports with regard to the operation of this Act.

PART III provides for the protection of individual privacy by regulating the collection and disposal of personal information and regulating the circumstances under which personal information is to be used. Provision is made for organizing personal information into indexed data banks and for noting how personal information may be used. The individual to whom the information relates is given a right of access and a right of correction.

PART IV provides for an appeal to the Commissioner from a decision made under the Act. Provision is made for mediation, failing which the Commissioner is to hold an inquiry. Procedural safeguards are provided for the inquiry. The onus is placed on the government to prove that information should not be released. The Commissioner is empowered to make an order after the inquiry.

PART V provides for setting fees for the retrieval of information and for waiving those fees under some circumstances. This part also deals with the Commissioner's annual report, additional powers and duties, offences and other general matters.

Bill 34

1987

An Act to provide for Freedom of Information and Protection of Individual Privacy

CONTENTS

Section

1. Purposes
2. Definitions

PART I

ADMINISTRATION

3. Responsible minister
4. Information and Privacy Commissioner
5. Nature of employment
6. Salary and expenses
7. Temporary Commissioner
8. Staff
9. Administration

PART II

FREEDOM OF INFORMATION

ACCESS TO INFORMATION

10. Right of Access
11. Obligation to disclose

EXEMPTIONS

12. Cabinet records
13. Advice to government
14. Law enforcement
15. Relations with other governments
16. Defence
17. Third party information
18. Economic and other interests of Ontario
19. Solicitor client privilege
20. Danger to safety or health
21. Personal privacy
22. Information to be published
23. Severability of record

ACCESS PROCEDURE

24. Request
25. Request to be forwarded or transferred
26. Notice by head

Section

27. Extension of time
28. Affected persons
29. Contents of notice of refusal
30. Access to record

INFORMATION TO BE PUBLISHED OR AVAILABLE

31. Publication of information re institutions
32. Operation of institutions
33. Institution documents
34. Annual report of head

PART III

PROTECTION OF INDIVIDUAL PRIVACY

COLLECTION AND RETENTION OF PERSONAL INFORMATION

35. Collection of personal information
36. Manner of collection
37. Retention and disposal of personal information

USE AND DISCLOSURE OF PERSONAL INFORMATION

38. Use of personal information
39. Where disclosure permitted
40. Data banks
41. Personal information data bank index
42. Retention of record of use

RIGHT OF INDIVIDUAL TO WHOM PERSONAL INFORMATION RELATES TO ACCESS AND CORRECTION

43. Right of individual to whom personal information relates to access and correction

- (a) in the case of a ministry, the minister of the Crown who presides over the ministry, and
- (b) in the case of any other institution, the person designated as head of that institution in the regulations;

“Information and Privacy Commissioner” and “Commissioner” mean the Commissioner appointed under subsection 4 (1);

“institution” means,

- (a) a ministry of the Government of Ontario, and
- (b) any agency, board, commission, corporation or other body designated as an institution in the regulations;

“personal information” means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except where they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and

- (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

“record” means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes,

- (a) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof, and
- (b) subject to the regulations, any record that does not exist but is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution;

“responsible minister” means the minister of the Crown who is designated by order of the Lieutenant Governor in Council under section 3.

PART I

ADMINISTRATION

Responsible
minister

3. The Lieutenant Governor in Council may by order designate a minister of the Crown to be the responsible minister for the purposes of this Act.

Information
and Privacy
Commis-
sioner

4.—(1) There shall be appointed, as an officer of the Legislature, an Information and Privacy Commissioner to exercise the powers and perform the duties prescribed by this Act.

Appointment

(2) The Commissioner shall be appointed by the Lieutenant Governor in Council on the address of the Assembly.

Term and
removal
from office

(3) The Commissioner shall hold office for a term of five years and may be reappointed for a further term or terms, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the Assembly.

(4) The Commissioner may appoint an officer of his or her staff to be Assistant Information and Privacy Commissioner. Assistant Commissioner

5.—(1) The Commissioner shall work exclusively as Commissioner and shall not hold any other office under the Crown or engage in any other employment. Nature of employment

(2) The *Public Service Act* and the *Public Service Superannuation Act* do not apply to the Commissioner. R.S.O. 1980, cc. 418, 419 not to apply

6.—(1) The Commissioner shall be paid a salary to be fixed by the Lieutenant Governor in Council. Salary

(2) The salary of the Commissioner shall not be reduced except on the address of the Assembly. Idem

(3) The Commissioner is entitled to be paid reasonable travelling and living expenses while absent from his or her ordinary place of residence in the exercise of any functions under this Act. Expenses

(4) Part II of the *Legislative Assembly Retirement Allowances Act*, except sections 15 and 16 and subsection 18 (5), applies with necessary modifications to the Commissioner in the same manner as if the Commissioner were a member of the Legislative Assembly and for the purpose, Pension R.S.O. 1980, c. 236

“average annual remuneration” means the average annual salary of the Commissioner during any five years of his or her service, which years need not be consecutive, during which his or her salary was highest;

“remuneration” means the salary of the Commissioner.

7. If, while the Legislature is not in session, the Commissioner dies, resigns or is unable or neglects to perform the functions of the office of Commissioner, the Lieutenant Governor in Council may appoint a Temporary Commissioner to hold office for a term of not more than six months who shall, while in such office, have the powers and duties of the Commissioner and shall be paid such salary or other remuneration and expenses as the Lieutenant Governor in Council may fix. Temporary Commissioner

8.—(1) Subject to the approval of the Lieutenant Governor in Council, the Commissioner may employ mediators and any other officers and employees the Commissioner considers necessary for the efficient operation of the office and may determine their salary and remuneration and terms and conditions of employment. Staff

Benefits

(2) The employee benefits applicable from time to time to the public servants of Ontario with respect to,

- (a) cumulative vacation and sick leave credits for regular attendance and payments in respect of such credits;
- (b) plans for group life insurance, medical-surgical insurance or long term income protection; and
- (c) the granting of leave of absence,

apply to the employees of the Commissioner and where such benefits are provided for in regulations made under the *Public Service Act*, the Commissioner, or any person authorized in writing by him or her, may exercise the powers and duties of a minister or deputy minister or of the Civil Service Commission under such regulations.

R.S.O. 1980,
c. 418

Employees' superannuation benefits

R.S.O. 1980,
c. 419

(3) The *Public Service Superannuation Act* applies to the permanent and probationary staff of the Commissioner as though the Commissioner were a commission designated by the Lieutenant Governor in Council under section 28 of that Act.

Premises and supplies

9.—(1) The Commissioner may lease any premises and acquire any equipment and supplies necessary for the efficient operation of the office of the Commissioner.

Salary and expenses

(2) The salary of the Commissioner and the expenses required for the operation of the office are payable out of moneys appropriated therefor by the Legislature.

Audit

(3) The accounts and financial transactions of the office of the Commissioner shall be audited annually by the Provincial Auditor.

PART II

FREEDOM OF INFORMATION

ACCESS TO RECORDS

Right of access

10. Every person has a right of access to a record or a part of a record in the custody or under the control of an institution unless the record or the part of the record falls within one of the exemptions under sections 12 to 22.

Obligation to disclose

11. Despite any other provision of this Act, a head shall, as soon as practicable, disclose any record to the public or

persons affected if the head has reasonable and probable grounds to believe that it is in the public interest to do so and that the record reveals a grave environmental, health or safety hazard to the public.

EXEMPTIONS

12.—(1) A head shall refuse to disclose a record where the disclosure would reveal the substance of deliberations of an Executive Council, including, Cabinet records

- (a) an agenda, minute or other record of the deliberations or decisions of the Executive Council or its committees;
- (b) a record containing proposals or recommendations submitted, or prepared for submission, to the Executive Council or its committees;
- (c) a record containing background explanations, analyses of problems or policy options submitted or prepared for submission to the Executive Council or its committees for their consideration in making decisions, before those decisions are made and implemented;
- (d) a record used for or reflecting consultation among ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy;
- (e) a record prepared to brief a minister of the Crown in relation to matters that are before or are proposed to be brought before the Executive Council or its committees, or are the subject of consultations among ministers relating to government decisions or the formulation of government policy; and
- (f) draft legislation or regulations.

(2) Despite subsection (1), a head shall not refuse to disclose a record under subsection (1) where, Exception

- (a) the record is more than twenty years old; or
- (b) the Executive Council for which, or in respect of which, the record has been prepared consents to access being given.

Advice to
government

13.—(1) A head may refuse to disclose a record where the disclosure would reveal advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution.

Exception

(2) Despite subsection (1), a head shall not refuse to disclose,

- (a) factual material;
- (b) a statistical survey;
- (c) a report by a valuator, whether or not the valuator is an officer of the institution;
- (d) an environmental impact statement or similar record;
- (e) a report of a test carried out on a product for the purpose of government equipment testing or a consumer test report;
- (f) a report or study on the performance or efficiency of an institution, whether the report or study is of a general nature or is in respect of a particular program or policy;
- (g) a feasibility study or other technical study, including a cost estimate, relating to a government policy or project;
- (h) a report containing the results of field research undertaken before the formulation of a policy proposal;
- (i) a final plan or proposal for the reorganization of the function of an institution, or for the establishment of a new program, including a budgetary estimate for the program, whether or not the plan or proposal is subject to approval, unless the plan or proposal is to be submitted to the Executive Council;
- (j) a report of an interdepartmental committee task force or similar body, or of a committee or task force within an institution, which has been established for the purpose of preparing a report on a particular topic, unless the report is to be submitted to the Executive Council;

- (k) a report of a committee, council or other body which is attached to an institution and which has been established for the purpose of undertaking inquiries and making reports or recommendations to the institution;
- (l) a final decision, order or ruling of an officer of the institution made during or at the conclusion of the exercise of discretionary power conferred by or under an enactment or scheme administered by the institution, whether or not the enactment or scheme allows an appeal to be taken against the decision, order or ruling, and any reason explaining the decision, order or ruling, whether or not the reason,
 - (i) is contained in an internal memorandum of the institution or in a letter addressed by an officer or employee of the institution to a named person, or
 - (ii) was given by the officer who made the decision, order or ruling or was incorporated by reference into the decision, order or ruling.

(3) Despite subsection (1), a head shall not refuse to disclose a record under subsection (1) where the record is more than twenty years old. Idem

14.—(1) A head may refuse to disclose a record where the disclosure could reasonably be expected to, Law enforcement

- (a) interfere with a law enforcement matter;
- (b) interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (c) reveal investigative techniques and procedures currently in use or likely to be used;
- (d) disclose the identity of a confidential source of information, or disclose information furnished only by the confidential source;
- (e) endanger the life or physical safety of a law enforcement officer or any other person;
- (f) deprive a person of the right to a fair trial or impartial adjudication;

- (g) interfere with the gathering of or reveal intelligence information respecting organizations or persons;
- (h) reveal a record which has been confiscated from a person by a peace officer in accordance with an Act or regulation;
- (i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;
- (j) facilitate the escape from custody of a person who is under lawful detention;
- (k) jeopardize the security of a centre for lawful detention; or
- (l) facilitate the commission of an offence or hamper the control of crime.

Idem

(2) A head may refuse to disclose a record,

- (a) that is a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law;
- (b) that is a law enforcement record where the disclosure would constitute an offence under an Act of Parliament;
- (c) that is a law enforcement record where the disclosure could reasonably be expected to expose the author of the record or any person who has been quoted or paraphrased in the record to civil liability; or
- (d) that contains information about the history, supervision or release of a person under the control or supervision of a correctional authority.

Refusal to
confirm or
deny
existence
of record
Review

(3) A head may refuse to confirm or deny the existence of a record to which subsection (1) or (2) apply.

(4) Where a head refuses to confirm or deny the existence of a record, the person who made the request may appeal to the Commissioner for a review of the head's decision.

15. A head may refuse to disclose a record where the disclosure could reasonably be expected to,

Relations
with other
governments

- (a) prejudice the conduct of intergovernmental relations by the Government of Canada or an institution;
- (b) reveal information received in confidence from another government or its agencies by an institution; or
- (c) reveal information received in confidence from an international organization of states or a body thereof by an institution,

and shall not disclose any such record without the prior approval of the Executive Council.

16. A head may refuse to disclose a record where the disclosure could reasonably be expected to prejudice the defence of Canada or of any foreign state allied or associated with Canada or be injurious to the detection, prevention or suppression of espionage, sabotage or terrorism and shall not disclose any such record without the prior approval of the Executive Council.

Defence

17.—(1) A head may refuse to disclose a record that reveals a trade secret or scientific, technical, commercial or financial information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to,

Third party
information

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in information of the same kind no longer being supplied to the institution, where,
 - (i) the information was supplied to the institution on a confidential basis, and
 - (ii) it is in the public interest that similar information continue to be supplied to the institution; or
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency.

Exception

(2) Subsection (1) does not apply to a record where the public interest in its disclosure outweighs the interest of any person, group of persons, or organization in its continued confidentiality.

Economic
and
other
interests
of Ontario

18.—(1) A head may refuse to disclose a record that contains,

- (a) trade secrets or financial, commercial, scientific or technical information that belongs to the Government of Ontario or an institution and has monetary value or potential monetary value;
- (b) scientific or technical information obtained through research by an employee of an institution where the disclosure could reasonably be expected to deprive the employee of priority of publication;
- (c) information where the disclosure could reasonably be expected to prejudice the economic interests of an institution or the competitive position of an institution;
- (d) information where the disclosure could reasonably be expected to be injurious to the financial interests of the Government of Ontario or the ability of the Government of Ontario to manage the economy of Ontario;
- (e) positions, plans, procedures, criteria or instructions to be applied to any negotiations carried on or to be carried on by or on behalf of an institution or the Government of Ontario;
- (f) plans relating to the management of personnel or the administration of an institution that have not yet been put into operation or made public;
- (g) information including the proposed plans, policies or projects of an institution where the disclosure could reasonably be expected to result in premature disclosure of a pending policy decision or undue financial benefit or loss to a person.

Exception

(2) A head shall not refuse under subsection (1) to disclose a record that contains the results of product or environmental testing carried out by or for an institution, unless,

- (a) the testing was done as a service to a person, a group of persons or an organization other than an institution and for a fee; or
- (b) the testing was conducted as preliminary or experimental tests for the purpose of developing methods of testing.

(3) Subsection (1) does not apply to a record where the public interest in its disclosure outweighs the interest of the Government of Ontario in its continued confidentiality. Idem

19. A head may refuse to disclose a record that is subject to solicitor-client privilege. Solicitor-client privilege

20. A head may refuse to disclose a record where the disclosure could reasonably be expected to seriously threaten the safety or health of an individual. Danger to safety or health

21.—(1) A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except, Personal privacy

- (a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;
- (b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;
- (c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;
- (d) under an Act of Ontario or Canada that expressly authorizes the disclosure;
- (e) for a research purpose if,
 - (i) the use of disclosure is consistent with the conditions or reasonable expectations of use and disclosure under which the personal information was provided, collected or obtained,
 - (ii) the research purpose for which the disclosure is to be made cannot be reasonably accom-

plished unless the information is provided in individually identifiable form, and

(iii) terms and conditions relating to,

(A) security and confidentiality,

(B) the removal or destruction of the individual identifier or identifiers associated with the record at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research or statistical project, and

(C) the prohibition of any subsequent use or disclosure of the record in individually identifiable form without the express authorization of the institution,

have been approved by the responsible minister and the person obtaining the record has filed with the responsible minister a written statement indicating that the person understands and will abide by the terms and conditions; or

(f) if the disclosure does not constitute an unjustified invasion of personal privacy.

Criteria re
invasion of
privacy

(2) A person, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider whether,

(a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;

(b) access to the personal information may promote public health and safety;

(c) access to the personal information will promote informed choice in the purchase of goods and services;

(d) the personal information is relevant to a fair determination of rights affecting the person who made the request;

(e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;

- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable;
- (h) the personal information has been supplied by the individual to whom the information relates in confidence; and
- (i) the disclosure may unfairly damage the reputation of any person referred to in the record,

and shall take into account any other relevant circumstance.

(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

Presumed
invasion
of privacy

- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation, except for personal information confirming an individual's presence in a health care facility;
- (b) was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
- (c) relates to eligibility for social service or welfare benefits or to the determination of benefit levels;
- (d) relates to employment history;
- (e) was obtained on an income tax return or similar return or gathered by an institution for the purpose of collecting an income tax or similar tax;
- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
- (g) consists of personal recommendations or evaluations, character references or personnel evaluations; or
- (h) indicates the individual's racial or ethnic origin or religious or political beliefs and associations.

(4) Despite subsection (3), clause (1) (f) does not apply to a record which,

Limitation

- (a) discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution or a member of the staff of a minister;
- (b) discloses financial or other details of a contract for personal services between an individual and an institution; or
- (c) discloses details of a licence or permit or a similar discretionary financial benefit conferred on an individual by an institution or a head under circumstances where,
 - (i) the individual represents 1 per cent or more of all persons and organizations in Ontario receiving a similar benefit, and
 - (ii) the value of the benefit to the individual represents 1 per cent or more of the total value of similar benefits provided to other persons and organizations in Ontario.

Information
soon to be
published

22. A head may refuse to disclose a record where,

- (a) the record or the information contained in the record has been published or is currently available to the public; or
- (b) the head believes on reasonable grounds that the record or the information contained in the record will be published by an institution within ninety days after the request is made or within such further period of time as may be necessary for printing or translating the material for the purpose of printing it.

Severability
of record

23. Where an institution receives a request for access to a record that falls under one of the exemptions under sections 12 to 22 and that record contains information which, if it were a separate record, would be required to be disclosed, the head shall release the information that would be required to be disclosed unless the information that falls under one of the exemptions is not reasonably severable from the whole record.

ACCESS PROCEDURE

Request

24.—(1) A person seeking access to a record shall make a request therefor in writing to the institution that the person

believes has custody or control of the record and shall provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record.

(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1). Sufficiency of detail

25.—(1) Where an institution receives a request for access to a record that the institution does not have in its custody or under its control, the head shall make all necessary inquiries to determine whether another institution has custody or control of the record, and where the head determines that another institution has custody or control of the record, the head shall within 15 days after the request is received, Request to be forwarded

- (a) forward the request to the other institution; and
- (b) give written notice to the person who made the request that it has been forwarded to the other institution.

(2) Where an institution receives a request for access to a record and the head considers that another institution has a greater interest in the record, the head may transfer the request and, if necessary, the record to the other institution, within fifteen days after the request is received, in which case the head transferring the request shall give written notice of the transfer to the person who made the request. Transfer of request

(3) For the purpose of subsection (2), an institution has a greater interest in a record than another institution if, Greater interest

- (a) the record was originally produced in or for the other institution; or
- (b) in the case of a record not originally produced in or for an institution, the other institution was the first institution to receive the record or a copy thereof.

(4) Where a request is forwarded or transferred under subsection (1) or (2), the request shall be deemed to have been made to the institution to which it is forwarded or transferred on the day the institution to which the request was originally made received it. When transferred request deemed made

26. Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 25, the head of the Notice by head

institution to which it is forwarded or transferred, shall, subject to sections 27 and 28, within thirty days after the request is received,

- (a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and
- (b) if access is to be given, give the person who made the request access to the record or part thereof, or where necessary cause the record to be produced.

Extension
of time

27.—(1) A head may extend the time limit set out in subsection 25 (1) or (2) or section 26 for a period of time that is reasonable in the circumstances, where,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit set out in subsection 25 (1) or (2) or section 26 would unreasonably interfere with the operations of the institution; or
- (b) consultations that cannot reasonably be completed within the time limit set out in subsection 25 (1) or (2) or section 26 are necessary to comply with the request.

Notice of
extension

(2) Where a head extends the time limit under subsection (1), the head shall give the person who made the request written notice of the extension setting out,

- (a) the length of the extension;
- (b) the reason for the extension; and
- (c) that the person who made the request may ask the Commissioner to review the extension.

Notice to
affected
person

28.—(1) Before a head grants a request for access to a record,

- (a) that the head has reason to believe might contain information referred to in subsection 17 (1) that affects the interest of a person other than the person requesting information; or
- (b) that is personal information coming within the exception in clause 21 (1) (f),

the head shall, where practicable, within thirty days after the request for access is received, give written notice in accordance with subsection (2) to the person to whom the information relates.

(2) The notice shall contain,

Contents
of notice

- (a) a statement that the head intends to release a record or part thereof that may affect the interests of the person;
- (b) a description of the contents of the record or part thereof that relate to the person; and
- (c) a statement that the person may, within twenty days after the notice is given, make representations to the head as to why the record or part thereof should not be disclosed.

(3) A head may extend the time set out in subsection (1) in respect of a request under this Act where the time limit set out in section 26 is extended under section 27 in respect of the same request, but no extension period under this subsection shall exceed the period of the extension under section 27.

Extension
of time

(4) Where a head gives notice to a person under subsection (1), the head shall also give the person who made the request written notice of delay, setting out,

Notice of
delay

- (a) that the record or part thereof may affect the interests of another party;
- (b) that the other party is being given an opportunity to make representations concerning disclosure; and
- (c) that the head will after twenty-one days decide whether or not to disclose the record.

(5) Where a notice is given under subsection (1), the person to whom the information relates may, within twenty days after the notice is given, make representations to the head as to why the record or the part thereof should not be disclosed.

Represent-
ation
re disclosure

(6) Representations under subsection (5) shall be made in writing unless the head permits them to be made orally.

Represent-
ation
in writing

(7) The head shall, within thirty days after the notice under subsection (1) is given, but not before the earlier of,

Decision re
disclosure

- (a) the day the response to the notice from the person to whom the information relates is received; or
- (b) twenty-one days after the notice is given,

decide whether or not to disclose the record or the part thereof and give written notice of the decision to the person to whom the information relates and the person who made the request.

Notice of
head's
decision
to disclose

(8) Where a head decides to disclose a record or part thereof under subsection (7), the head shall state in the notice that,

- (a) the person to whom the information relates may ask the Commissioner to review the decision within twenty days after the notice is given; and
- (b) the person who made the request will be given access thereto or to a part thereof, unless within twenty days after the notice is given, a review of the decision is requested.

Access to be
given unless
affected
person
appeals

(9) Where, under subsection 27 (7), the head decides to disclose the record or a part thereof, the head shall give the person who made the request access to the record or part thereof twenty days after notice is given under subsection 27 (7), unless the person to whom the information relates asks the Commissioner to review the decision.

Contents of
notice of
refusal

29.—(1) Where a head refuses to give access to a record or a part thereof under section 25, the head shall state in the notice given under section 26,

- (a) where the record does not exist or cannot be produced, that it does not exist or cannot be produced; or
- (b) where the record exists or can be produced,
 - (i) the specific provision of this Act under which access is refused,
 - (ii) the reason the provision named in subclause (i) applies to the record,
 - (iii) the name and office of the person responsible for making the decision to refuse access, and

- (iv) that the person who made the request may appeal to the Commissioner for a review of the decision.

(2) Despite subsection (1), where a head refuses to confirm or deny the existence of a record under subsection 14 (1) or (2) (law enforcement exemption), the head shall state in the notice given under section 26, Idem

- (a) that under subsection 14 (3) the head refuses to confirm or deny the existence of a record;
- (b) the name and office of the person responsible for making the decision; and
- (c) that the person who made the request may appeal to the Commissioner for a review of the decision.

(3) Where a head refuses to disclose a record or part thereof under subsection 28 (7), the head shall state in the notice given under subsection 28 (7), Idem

- (a) the specific provision of this Act under which access is refused;
- (b) the reason the provision named in clause (a) applies to the record;
- (c) the name and office of the person responsible for making the decision to refuse access; and
- (d) that the person who made the request may appeal to the Commissioner for a review of the decision.

(4) Where a head fails to comply with section 26 or subsection 28 (7), the head is, for the purposes of this Act, deemed to have refused to give access to the record. Deemed refusal

30.—(1) Subject to subsections (2) and (3), a person who is given access to a record or a part thereof under this Act shall be given a copy thereof unless it would not be reasonably practicable to reproduce the record or part thereof by reason of its length or nature, in which case the person shall be given an opportunity to examine the record or part thereof in accordance with the regulations. Copy of record

(2) A head has discretion to allow the person who is given access to the record to examine it or a part thereof in accordance with the regulations. Access to original record

Idem

(3) Where a person requests the opportunity to examine a record or a part thereof for the purpose of selecting those portions that the person wishes to have copied, and it is reasonably practicable to give the person that opportunity, the head shall allow the person to examine the record or part thereof in accordance with the regulations.

INFORMATION TO BE PUBLISHED OR AVAILABLE

Publication
of
information
re institutions

31. The Lieutenant Governor in Council shall cause to be published annually a compilation listing all institutions and, in respect of each institution, setting out,

- (a) where a request for a record should be made;
- (b) where the material referred to in sections 32, 33 and 34 has been made available; and
- (c) whether the institution has a library or reading room which is available for public use, and if so, its address.

Operation of
institutions

32. A head shall make available for inspection and copying by the public, at an office of the institution and at another government office or a public library, a fully indexed compilation containing,

- (a) a description of the organization and responsibilities of the institution including details of the programs and functions of each division or branch of the institution;
- (b) a list of the general classes or types of records prepared by or in the custody or control of the institution;
- (c) the title, business telephone number and business address of the head of the institution; and
- (d) any amendment of information referred to in clause (a), (b) or (c) which has been made available in accordance with this section.

Institution
documents

33.—(1) A head shall make available, in the manner described in section 32, any document which has been prepared by the institution and issued to officers of the institution and which contains,

- (a) interpretations of the provisions of any enactment or scheme administered by the institution where the

interpretations are to be applied by, or are to be guidelines for, any officer who determines,

- (i) an application by a person for a right, privilege or benefit which is conferred by the enactment or scheme,
 - (ii) whether to suspend, revoke or impose new conditions on a right, privilege or benefit already granted to a person under the enactment or scheme, or
 - (iii) whether to impose an obligation or liability on a person under the enactment or scheme; or
- (b) instructions to, and guidelines for, officers of the institution on the procedures to be followed, the methods to be employed or the objectives to be pursued in their administration or enforcement of the provisions of any enactment or scheme administered by the institution that affects the public.

(2) A head may delete from a document made available under subsection (1) any record or part of a record which the head would be entitled to refuse to disclose where the head includes in the document, Deletions

- (a) a statement of the fact that a deletion has been made;
- (b) a brief statement of the nature of the record which has been deleted; and
- (c) a reference to the provision of this Act on which the head relies.

(3) Subsections (1) and (2) apply to amendments to documents. Amendments

34.—(1) A head shall make an annual report, in accordance with subsection (2), to the Commissioner. Annual report of head

- (2) A report made under subsection (1) shall specify, Contents of report
- (a) the number of requests for access to records made to the institution;
 - (b) the number of refusals by the head to disclose a document, the provisions of this Act under which

disclosure was refused and the number of occasions on which each provision was invoked;

- (c) the number of applications to the Commissioner for review of a refusal to disclose a document and the number of applications for review of a decision by the head to charge a fee or of the amount of the fee under section 53;
- (d) the amount of fees collected by the institution under section 53;
- (e) the location of any reading room or other facility provided by the institution for the use of a person wishing to inspect or copy a document possessed by the institution; and
- (f) any other information indicating an effort by the institution to put into practice the purposes of this Act.

PART III

PROTECTION OF INDIVIDUAL PRIVACY

COLLECTION AND RETENTION OF PERSONAL INFORMATION

Definition

35.—(1) In this section and in section 36, “personal information” includes information that is not recorded and that is otherwise defined as “personal information” under this Act.

Collection of personal information

(2) No person shall collect personal information on behalf of an institution unless the collection is expressly authorized by statute, used for the purposes of law enforcement or necessary to the proper administration of a lawfully authorized activity.

Manner of collection

36.—(1) Personal information shall only be collected by an institution directly from the individual to whom the information relates unless,

- (a) the individual authorizes another manner of collection;
- (b) the personal information may be disclosed to the institution concerned under section 39;
- (c) the Commissioner has authorized the manner of collection under clause 55 (c);

- (d) the information is in a report from a reporting agency in accordance with the *Consumer Reporting Act*; R.S.O. 1980,
c. 89
- (e) the information is collected for the purpose of the conduct of a proceeding in a court or judicial or quasi-judicial tribunal; or
- (f) the information is collected for the purpose of law enforcement.

(2) Where personal information is collected on behalf of an institution, the head shall, unless notice is waived by the responsible minister, inform the individual to whom the information relates of, Notice to
individual

- (a) the legal authority for the collection;
- (b) the principal purpose or purposes for which the personal information is intended to be used; and
- (c) the title, business address and business telephone number of a public official who can answer the individual's questions about the collection.

(3) Subsection (2) does not apply where the personal information can be classified as an exemption under subsection 14 (1) or (2) (law enforcement). Exception

37.—(1) Personal information that has been used by an institution shall be retained after use by the institution for the period prescribed by regulation in order to ensure that the individual to whom it relates has a reasonable opportunity to obtain access to the personal information. Retention
of personal
information

(2) The head of a public institution shall ensure that personal information on the records of the institution is not used unless it is reasonably accurate and up to date. Standard
of accuracy

(3) Subsection (2) does not apply to personal information collected for law enforcement purposes, Exception

- (a) where the recipient works for an institution involved in law enforcement; or
- (b) where the head of the institution informs the recipient of the information that it may not be reliable.

(4) A head shall dispose of personal information under the control of the institution in accordance with the regulations Disposal of
personal
information

and in accordance with any directives or guidelines issued by the responsible minister.

USE AND DISCLOSURE OF PERSONAL INFORMATION

Use of
personal
information

38. Personal information under the control of an institution shall not be used by the institution without the consent of the individual to whom the information relates except,

- (a) for the purpose for which it was obtained or compiled or for a use consistent with the purpose; or
- (b) for a purpose for which the information may be disclosed to the institution under section 39.

Where
disclosure
permitted

39.—(1) A head may disclose personal information under the control of the institution,

- (a) in accordance with Part II;
- (b) where disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and where disclosure is necessary and proper in the discharge of the institution's functions;
- (c) for the purpose of complying with an Act of the Legislature or an Act of Parliament or a treaty, agreement or arrangement thereunder;
- (d) where disclosure is by a law enforcement institution to a law enforcement institution in a foreign country under a written agreement, treaty or legislative authority or to another law enforcement institution in Canada;
- (e) where disclosure is to an institution to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (f) in compelling circumstances affecting the health or safety of an individual if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;
- (g) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;

- (h) to a member of the Legislative Assembly who has been authorized by a constituent to whom the information relates to make an inquiry on the constituent's behalf or, where the constituent is incapacitated, has been authorized by the next of kin or legal representative of the constituent;
- (i) to the Provincial Auditor;
- (j) to the Ombudsman;
- (k) to the responsible minister;
- (l) to the Information and Privacy Commissioner;
- (m) to the Government of Canada in order to facilitate the auditing of shared cost programs;
- (n) to the Archives of Ontario; and
- (o) to Statistics Canada.

(2) A head shall retain a copy of every request received by the institution under clause (1) (d) for the period of time as may be prescribed by regulation and shall, upon the request of the responsible minister, make the copy available to the responsible minister.

Retention of
requests
re law
enforcement

DATA BANKS

40. A head shall cause to be included in a data bank all personal information under the control of the institution that,

Data
banks

- (a) has been used, is being used or is available for use;
or
- (b) is organized or intended to be retrieved by the individual's name or by an identifying number, symbol or other particular assigned to the individual.

41.—(1) The responsible minister shall publish at least once each year an index of all data banks containing personal information setting forth, in respect of each data bank,

Personal
information
data bank
index

- (a) its name and location;
- (b) the legal authority for its establishment;
- (c) the types of personal information maintained in it;

- (d) the principal uses of the personal information and the categories of users to whom disclosures from the system are typically made;
- (e) any other uses and purposes for which personal information in the data bank is used or disclosed on a regular basis;
- (f) the categories of individuals for whom records are maintained in the system;
- (g) the policies and practices applicable to the system with respect to storage, retrievability, access controls, retention and disposal of personal information maintained in the system; and
- (h) the title, business address and business telephone number of the official responsible for the operation of the data bank.

Availability
of index

(2) The responsible minister shall cause the index referred to in subsection (1) to be made available for inspection to the public as prescribed by regulation in conformity with the principle that every person is entitled to reasonable access to the index.

Retention of
record of use

42.—(1) A head shall retain a record of any use by the institution of personal information contained in a personal data bank and of any use or purpose for which the information is disclosed where the use or purpose is not included in the statements of uses and purposes set forth under clauses 41 (1) (d) and (e) and shall attach or link the record of use to the personal information.

Record of
use part of
personal
information

(2) A record retained under subsection (1) forms part of the personal information to which it is attached or linked.

Notice and
publication

(3) Where the personal information in a data bank under the control of an institution is used or disclosed for a use consistent with the purpose for which the information was obtained or compiled by the institution but the use is not one of the uses included under clauses 41 (1) (d) and (e), the head shall,

- (a) forthwith notify the responsible minister of the use or disclosure; and
- (b) ensure that the use is included in the next statement of consistent uses set forth in the index.

RIGHT OF INDIVIDUAL TO WHOM PERSONAL INFORMATION
RELATES TO ACCESS AND CORRECTION

43.—(1) Every individual has a right of access to,

Right of
access to
personal
information

- (a) any personal information about the individual contained in a data bank under the control of an institution; and
- (b) any other personal information about the individual under the control of an institution with respect to which the individual is able to provide sufficiently specific information to render it reasonably retrievable by the institution.

(2) Every individual who is given access under subsection (1) to personal information is entitled to,

Right of
correction

- (a) request correction of the personal information where the individual believes there is an error or omission therein;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
- (c) require that any person or body to whom the personal information has been disclosed within the year before the time a correction is requested or a statement of disagreement is required be notified of the correction or statement of disagreement.

44.—(1) An individual seeking access to personal information about the individual shall make a request therefor in writing to the institution that the individual believes has control of the personal information and shall identify the data bank or otherwise identify the location of the personal information.

Request

(2) Subsection 24 (2) and sections 23, 25, 26, 27 and 28 apply with necessary modifications to a request made under subsection (1).

Access
procedures

(3) Subject to the regulations, where an individual is to be given access to personal information requested under subsection (1), the head shall,

Manner
of access

- (a) permit the individual to examine the personal information; or
- (b) provide the individual with a copy thereof.

Compre-
hensible
form

(4) Where access to personal information is to be given, the head shall ensure that the personal information is provided to the individual in a comprehensible form and in a manner which indicates the general terms and conditions under which the personal information is stored and used.

Exemptions

45. A head may refuse to disclose personal information,

- (a) to which section 12, 13, 14, 15, 16, 17, 18, 19, 20 or 22 apply;
- (b) where the disclosure would constitute an unwarranted invasion of another individual's personal privacy;
- (c) that is evaluative or opinion material compiled solely for the purpose of determining suitability, eligibility or qualifications for employment or for the awarding of government contracts and other benefits where the disclosure would reveal the identity of a source who furnished information to the institution in circumstances where it may reasonably have been assumed that the identity of the source would be held in confidence;
- (d) that is medical information where the disclosure could reasonably be expected to prejudice the mental or physical health of the individual;
- (e) that is a correctional record where the disclosure could reasonably be expected to,
 - (i) seriously disrupt an individual's institutional, parole or mandatory supervision program,
 - (ii) reveal information supplied in confidence, or
 - (iii) result in physical or other harm to the individual or another person; or
- (f) that is a research or statistical record.

PART IV

APPEAL

Right to
appeal

46.—(1) A person who has made a request for,

- (a) access to a record under subsection 24 (1);

- (b) access to personal information under subsection 44 (1); or
- (c) correction of personal information under subsection 43 (2),

or a person who is given notice of a request under subsection 28 (1) may appeal any decision of a head under this Act to the Commissioner but the exercise of the discretion of a head to disclose or refuse to disclose a record which is found to be included under an exemption in section 13, 14, 15, 16, 17, 18, 19, 20 or 22 is not appealable.

(2) An appeal under subsection (1) shall be made within thirty days after the notice was given of the decision appealed from by filing with the Commissioner written notice of appeal.

Time for application

(3) Upon receiving a notice of appeal, the Commissioner shall inform the head of the institution concerned and any other affected person of the notice of appeal.

Notice of application for appeal

(4) The *Ombudsman Act* does not apply in respect of a complaint for which an appeal is provided under this Act or to the Commissioner or the Commissioner's delegate acting under this Act.

Application of R.S.O. 1980, c. 325

47. The Commissioner may authorize a mediator to investigate the circumstances of any appeal and to try to effect a settlement of the matter under appeal.

Mediator to try to effect settlement

48.—(1) Where a settlement is not effected under section 47, the Commissioner shall conduct an inquiry to review the head's decision.

Inquiry

(2) The *Statutory Powers Procedure Act* does not apply to an inquiry under subsection (1).

R.S.O. 1980, c. 484 not to apply

(3) The inquiry may be conducted in private.

Inquiry in private

(4) In an inquiry, the Commissioner may require to be produced to the Commissioner and may examine any record that is in the custody or under the control of an institution, despite Parts II and III of this Act or any other Act or privilege, and may enter and inspect any premises occupied by an institution for the purposes of the investigation.

Powers of Commissioner

(5) The Commissioner shall not retain any information obtained from a record under subsection (4).

Record not retained by Commissioner

Examination
on site

(6) Despite subsection (4), a head may require that the examination of a record by the Commissioner be of the original at its site.

Notice of
entry

(7) Before entering any premises under subsection (4), the Commissioner shall notify the head of the institution occupying the premises of his or her purpose.

Examination
under oath

(8) The Commissioner may summon and examine on oath any person who, in the Commissioner's opinion, has information relating to the inquiry, and for that purpose the Commissioner may administer an oath.

Evidence
privileged

(9) Anything said or any information supplied or any document or thing produced by a person in the course of an inquiry by the Commissioner under this Act is privileged in the same manner as if the inquiry were a proceeding in a court.

Protection

(10) Except on the trial of a person for perjury in respect of his or her sworn testimony, no statement made or answer given by that or any other person in the course of an inquiry by the Commissioner is admissible in evidence in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Commissioner shall be given against any person.

Idem under
R.S.C. 1970,
c. E-10

(11) A person giving a statement or answer in the course of an inquiry before the Commissioner shall be informed by the Commissioner of his or her right to object to answer any question under section 5 of the *Canada Evidence Act*.

Prosecution

(12) No person is liable to prosecution for an offence against any Act, other than this Act, by reason of his or her compliance with a requirement of the Commissioner under this section.

Represent-
ations

(13) The person who requested access to the record, the head of the institution concerned and any affected party shall be given an opportunity to make representations to the Commissioner, but no person is entitled to be present during, to have access to or to comment on representations made to the Commissioner by any other person.

Right to
counsel

(14) The person who requested access to the record, the head of the institution concerned and any affected party may be represented by counsel or an agent.

49. The onus in an inquiry is on the head to prove that a report or part of a report falls within one of the specified exemptions in this Act. Onus

50.—(1) After all of the evidence for an inquiry has been received, the Commissioner shall make an order disposing of the issues raised by the appeal. Order

(2) The Commissioner's order may contain any terms and conditions the Commissioner considers appropriate. Terms and conditions

(3) The Commissioner shall give the appellant and the persons who received notice of the appeal under subsection 46 (3) written notice of the order. Notice of order

51.—(1) The Commissioner or any person acting on behalf of or under the direction of the Commissioner shall not disclose any information that comes to their knowledge in the performance of their powers, duties and functions under this Act. Confidentiality

(2) The Commissioner or any person acting on behalf or under the direction of the Commissioner is not compellable to give evidence in a court or in a proceeding of a judicial nature concerning anything coming to their knowledge in the exercise or performance of a power, duty or function under this Act. Not compellable witness

(3) No proceeding lies against the Commissioner or against any person acting on behalf or under the direction of the Commissioner for anything done, reported or said in good faith in the course of the exercise or performance or purported exercise or performance of a power, duty or function under this Act. Proceedings privileged

52.—(1) The Commissioner may in writing delegate a power or duty granted or vested in the Commissioner to an officer or officers of the Commission, except the power to delegate under this section, subject to such limitations, restrictions, conditions and requirements as the Commissioner may set out in the delegation. Delegation by Commissioner

(2) The Commissioner shall not delegate to a person other than the Assistant Information and Privacy Commissioner his or her power to require a record referred to in section 12 or 14 to be produced and examined. Exception re records under s. 12 or 14

PART V

GENERAL

Costs

53.—(1) Where no provision is made for a charge or fee under any other Act, a head may require the person who makes a request for access to a record or for correction of a record to pay,

- (a) a search charge for every hour of manual search required in excess of two hours to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record; and
- (d) shipping costs.

Estimate
of costs

(2) The head of a public institution shall, before giving access to a record, give the person requesting access a reasonable estimate of any amount that will be required to be paid under this Act that is over \$25.

Waiver of
payment

(3) A head may waive the payment of all or any part of an amount required to be paid under this Act where, in the head's opinion, it is fair and equitable to do so after considering,

- (a) the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required by subsection (1);
- (b) whether the payment will cause a financial hardship for the person requesting the record;
- (c) whether dissemination of the record will benefit public health or safety;
- (d) the amount of the costs together with the fact that the record contains personal information relating to the person who requested it; and
- (e) any other matter prescribed in the regulations.

Review

(4) A person who is required to pay a fee under subsection (1) may ask the Commissioner to review the head's decision to charge a fee or the amount of the fee.

(5) The costs provided in this section shall be paid and distributed in the manner prescribed in the regulations. Disposition of payments

54.—(1) The Commissioner shall make an annual report, in accordance with subsection (2), to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. Annual report of Commissioner

(2) A report made under subsection (1) shall contain, Contents of report

- (a) a summary of the nature and ultimate resolutions of appeals carried out under subsection 46 (1);
- (b) an assessment of the extent to which institutions are complying with this Act; and
- (c) the Commissioner's recommendations with respect to the practices of particular institutions and with respect to proposed revisions to the Act and regulations.

55. The Commissioner may, Powers and duties of Commissioner

- (a) offer comment on the privacy protection implications of proposed legislative schemes or government programs;
- (b) after hearing the head, order an institution to,
 - (i) cease a collection practice, and
 - (ii) destroy collections of personal information, that contravene this Act;
- (c) in appropriate circumstances, authorize the collection of personal information otherwise than directly from the individual;
- (d) engage in or commission research into issues affecting the purposes of this Act; and
- (e) receive representations from the public concerning the operation of this Act.

56. The Lieutenant Governor in Council may make regulations, Regulations

- (a) respecting the procedures for access to original records under section 30;
- (b) respecting the procedures for access to personal information under subsection 44 (3);
- (c) respecting what records can be produced and how they are to be produced from machine readable records;
- (d) setting standards for and requiring administrative, technical and physical safeguards to ensure the security and confidentiality of records and personal information under the control of institutions;
- (e) setting standards for the accuracy and completeness of personal information that is under the control of an institution;
- (f) prescribing time periods for the purposes of subsections 37 (1) and 39 (2);
- (g) prescribing the payment and allocation of fees received under section 53;
- (h) prescribing matters to be considered in determining whether to waive all or part of the costs required under section 53;
- (i) designating any agency, board, commission, corporation or other body as an institution and designating a head for each such institution;
- (j) designating institutions not relieved of liability in respect of a tort under subsection 58 (4);
- (k) respecting any matter the Lieutenant Governor in Council considers necessary to carry out effectively the purposes of this Act.

Offences

57.—(1) No person shall,

- (a) wilfully disclose personal information in contravention of this Act;
- (b) wilfully maintain a data bank that contravenes this Act; or
- (c) obtain or attempt to obtain personal information under false pretences in contravention of this Act.

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000. Penalty

58.—(1) A head may in writing delegate a power or duty granted or vested in the head to an officer or officers of the institution subject to such limitations, restrictions, conditions and requirements as the head may set out in the delegation. Delegation of head's powers

(2) No action or other proceeding lies against a head, or against a person acting on behalf or under the direction of the head, for damages resulting from the disclosure or non-disclosure in good faith of a record or any part of a record under this Act, or from the failure to give a notice required under this Act if reasonable care is taken to give the required notice. Protection from civil proceeding

(3) Subsection (2) does not by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act* relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (2) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (2) had not been enacted. Vicarious liability of Crown preserved
R.S.O. 1980, c. 393

(4) Subsection (2) does not relieve an institution that is designated by the regulations for the purposes of this section of liability in respect of a tort committed by a person mentioned in subsection (2) to which it would otherwise be subject and the institution is liable for any such tort in a like manner as if subsection (2) had not been enacted. Vicarious liability of certain institutions preserved

59.—(1) This Act does not impose any limitation on the information otherwise available by law to a party to litigation. Crown privilege

(2) This Act does not affect the power of a court or a tribunal to compel a witness to testify or compel the production of a document. Powers of courts and tribunals

60.—(1) The Standing Committee on Procedural Affairs shall undertake a comprehensive review of all confidentiality provisions contained in Acts in existence on the day this Act comes into force and shall make recommendations to the Legislative Assembly regarding, Review of other Acts

- (a) the repeal of unnecessary or inconsistent provisions; and
- (b) the amendment of provisions that do not conform to the purposes of this Act.

- Other Acts (2) This Act prevails over a confidentiality provision in any other Act unless the other Act specifically provides otherwise.
- Idem (3) Subsection (2) shall not have effect until two years after this section comes into force.
- Review of this Act **61.** The Standing Committee on Procedural Affairs shall, within three years after proclamation of this Act, undertake a comprehensive review of this Act and shall, within one year after beginning that review, make recommendations to the Legislative Assembly regarding amendments to this Act.
- 62.** Subsection 10 (1) of the *Public Service Act*, being chapter 418 of the Revised Statutes of Ontario, 1980, is amended by inserting after “legally” in the third line of the form of oath contained therein “authorized or”.
- Application **63.** This Act applies to any record in the custody or under the control of an institution regardless of whether it was recorded before or after this Act comes into force.
- Crown bound **64.** This Act binds the Crown.
- Commence-
ment **65.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Short title **66.** The short title of this Act is the *Freedom of Information and Protection of Privacy Act, 1987*.

Bill 34

An Act to provide for Freedom of Information and Protection of Individual Privacy

The Hon. I. Scott
Attorney General



1st Reading April 22nd, 1986
2nd Reading April 22nd, 1986
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The Bill substantially implements the recommendations of the Report of the Commission on Freedom of Information and Individual Privacy (Williams Report).

PART I makes a minister who is to be designated responsible for administration of the Act and establishes the office of Information and Privacy Commissioner. The Commissioner is appointed by the Legislature and the office is set up in a manner similar to the Ombudsman's office.

PART II provides a right of access to government information subject only to specified exemptions. Also provided are the procedure to be followed in seeking access and the manner in which access is to be given. Time limits are imposed on the government for answering a request for access and providing the information. Provision is made for protecting those other persons whose privacy or rights might be affected by release of information. The Government is required to make information about its institutions available to the public including how to request information, how the institutions run, what the institutions do and guidelines used by institutions in making various decisions. Institutions are also required to make annual reports with regard to the operation of the Act.

PART III provides for the protection of individual privacy by regulating the collection and disposal of personal information and regulating the circumstances under which personal information is to be used. Provision is made for organizing personal information into indexed personal information banks and for noting how personal information may be used. The individual to whom the information relates is given a right of access and a right of correction.

PART IV provides for an appeal to the Commissioner from a decision made under the Act. Provision is made for mediation, failing which the Commissioner is to hold an inquiry. Procedural safeguards are provided for the inquiry. The onus is placed on the government to prove that information should not be released. The Commissioner is empowered to make an order after the inquiry.

PART V provides for setting fees for the retrieval of information and for waiving those fees under some circumstances. This part also deals with the Commissioner's annual report, additional powers and duties, offences and other general matters.

Bill 34

1987

An Act to provide for Freedom of Information and Protection of Individual Privacy

CONTENTS

Section

1. Purposes
2. Definitions

PART I

ADMINISTRATION

3. Responsible minister
4. Information and Privacy Commissioner
5. Nature of employment
6. Salary and expenses
7. Temporary Commissioner
8. Staff
9. Administration

PART II

FREEDOM OF INFORMATION

ACCESS TO INFORMATION

10. Right of Access
11. Obligation to disclose

EXEMPTIONS

12. Cabinet records
13. Advice to government
14. Law enforcement
15. Relations with other governments
16. Defence
17. Third party information
18. Economic and other interests of Ontario
19. Solicitor client privilege
20. Danger to safety or health
21. Personal privacy
22. Information to be published
23. Exemptions not to apply

ACCESS PROCEDURE

24. Request
25. Request to be forwarded or transferred
26. Notice by head

Section

27. Extension of time
28. Affected persons
29. Contents of notice of refusal
30. Access to record

INFORMATION TO BE PUBLISHED OR AVAILABLE

31. Publication of information re institutions
32. Operation of institutions
33. Institution documents
34. Annual report of head
35. Documents made available
36. Information from heads

PART III

PROTECTION OF INDIVIDUAL PRIVACY

COLLECTION AND RETENTION OF PERSONAL INFORMATION

37. Application of Part
38. Collection of personal information
39. Manner of collection
40. Retention and disposal of personal information

USE AND DISCLOSURE OF PERSONAL INFORMATION

41. Use of personal information
42. Where disclosure permitted
43. Consistent purpose

PERSONAL INFORMATION BANKS

44. Personal information banks
45. Personal information bank index
46. Retention of record of use

Section

RIGHT OF INDIVIDUAL TO
WHOM PERSONAL
INFORMATION RELATES TO
ACCESS AND CORRECTION

- 47. Right of individual to whom personal information relates to access and correction
- 48. Procedure
- 49. Exemptions

PART IV

APPEAL

- 50. Right to appeal and application
- 51. Mediator to try to effect settlement
- 52. Inquiry
- 53. Burden of proof
- 54. Order
- 55. Confidentiality
- 56. Delegation by Commissioner

Section

PART V
GENERAL

- 57. Costs
- 58. Annual report of Commissioner
- 59. Powers and duties of Commissioner
- 60. Regulations
- 61. Offences
- 62. Delegation of head's powers and liability of Crown
- 63. Oral requests
- 64. Crown privilege
- 65. Application of Act
- 66. Exercise of rights of deceased, etc., persons
- 67. Review of other Acts
- 68. Review of this Act
- 69. *Public Service Act* amended
- 70. Application
- 71. Crown bound
- 72. Commencement
- 73. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Purposes

1. The purposes of this Act are,

- (a) to provide a right of access to information under the control of institutions in accordance with the principles that,
 - (i) information should be available to the public,
 - (ii) necessary exemptions from the right of access should be limited and specific, and
 - (iii) decisions on the disclosure of government information should be reviewed independently of government; and
- (b) to protect the privacy of individuals with respect to personal information about themselves held by institutions and to provide individuals with a right of access to that information.

Definitions

2.—(1) In this Act,

“head”, in respect of an institution, means,

- (a) in the case of a ministry, the minister of the Crown who presides over the ministry, and
- (b) in the case of any other institution, the person designated as head of that institution in the regulations;

“Information and Privacy Commissioner” and “Commissioner” mean the Commissioner appointed under subsection 4 (1);

“institution” means,

- (a) a ministry of the Government of Ontario,
- (b) the corporation of every municipality in Ontario, every local board as defined by the *Municipal Affairs Act*, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario, and R.S.O. 1980,
c. 303
- (c) any agency, board, commission, corporation or other body designated as an institution in the regulations;

“law enforcement” means,

- (a) policing,
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
- (c) the conduct of proceedings referred to in clause (b);

“personal information” means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except where they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

“personal information bank” means a collection of personal information that is organized and capable of being retrieved;

“record” means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes,

- (a) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof, and
- (b) subject to the regulations, any record that is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution;

“regulations” means the regulations made under this Act;

“responsible minister” means the minister of the Crown who is designated by order of the Lieutenant Governor in Council under section 3.

(2) Personal information does not include information about an individual who has been dead for more than thirty years. Personal information

(3) Clause (b) in the definition of “institution” in subsection (1) shall not have effect until three years after this section comes into force. Effective date

(4) Clause (b) in the definition of “institution” in subsection (1) applies to every municipality, including a metropolitan, district and regional municipality and the County of Oxford. Municipality

(5) Where no head is designated under clause (b) in the definition of “head” in subsection (1) in respect of an institution, the minister responsible for that institution shall be deemed to be the head of that institution. Deemed head where no designation

PART I

ADMINISTRATION

3. The Lieutenant Governor in Council may by order designate a minister of the Crown to be the responsible minister for the purposes of this Act. Responsible minister

4.—(1) There shall be appointed, as an officer of the Legislature, an Information and Privacy Commissioner to exercise the powers and perform the duties prescribed by this Act. Information and Privacy Commissioner

(2) The Commissioner shall be appointed by the Lieutenant Governor in Council on the address of the Assembly. Appointment

(3) The Commissioner shall hold office for a term of five years and may be reappointed for a further term or terms, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the Assembly. Term and removal from office

(4) The Commissioner shall appoint an officer of his or her staff to be Assistant Information Commissioner and another officer of his or her staff to be Assistant Privacy Commissioner. Assistant Commissioners

Nature of
employment

5.—(1) The Commissioner shall work exclusively as Commissioner and shall not hold any other office under the Crown or engage in any other employment.

R.S.O. 1980,
cc. 418, 419
not to apply

(2) The *Public Service Act* and the *Public Service Superannuation Act* do not apply to the Commissioner.

Salary

6.—(1) The Commissioner shall be paid a salary to be fixed by the Lieutenant Governor in Council.

Idem

(2) The salary of the Commissioner shall not be reduced except on the address of the Assembly.

Expenses

(3) The Commissioner is entitled to be paid reasonable travelling and living expenses while absent from his or her ordinary place of residence in the exercise of any functions under this Act.

Pension
R.S.O. 1980,
c. 236

(4) Part II of the *Legislative Assembly Retirement Allowances Act*, except sections 15 and 16 and subsection 18 (5), applies with necessary modifications to the Commissioner in the same manner as if the Commissioner were a member of the Legislative Assembly and for the purpose,

“average annual remuneration” means the average annual salary of the Commissioner during any five years of his or her service, which years need not be consecutive, during which his or her salary was highest;

“remuneration” means the salary of the Commissioner.

Temporary
Commis-
sioner

7. If, while the Legislature is not in session, the Commissioner dies, resigns or is unable or neglects to perform the functions of the office of Commissioner, the Lieutenant Governor in Council may appoint a Temporary Commissioner to hold office for a term of not more than six months who shall, while in such office, have the powers and duties of the Commissioner and shall be paid such salary or other remuneration and expenses as the Lieutenant Governor in Council may fix.

Staff

8.—(1) Subject to the approval of the Lieutenant Governor in Council, the Commissioner may employ mediators and any other officers and employees the Commissioner considers necessary for the efficient operation of the office and may determine their salary and remuneration and terms and conditions of employment.

Benefits

(2) The employee benefits applicable from time to time to the public servants of Ontario with respect to,

- (a) cumulative vacation and sick leave credits for regular attendance and payments in respect of such credits;
- (b) plans for group life insurance, medical-surgical insurance or long term income protection; and
- (c) the granting of leave of absence,

apply to the employees of the Commissioner and where such benefits are provided for in regulations made under the *Public Service Act*, the Commissioner, or any person authorized in writing by him or her, may exercise the powers and duties of a minister or deputy minister or of the Civil Service Commission under such regulations.

R.S.O. 1980,
c. 418

(3) The *Public Service Superannuation Act* applies to the permanent and probationary staff of the Commissioner as though the Commissioner were a commission designated by the Lieutenant Governor in Council under section 28 of that Act.

Employees'
superan-
nuation
benefits
R.S.O. 1980,
c. 419

9.—(1) The Commissioner may lease any premises and acquire any equipment and supplies necessary for the efficient operation of the office of the Commissioner.

Premises
and supplies

(2) The salary of the Commissioner and the expenses required for the operation of the office are payable out of moneys appropriated therefor by the Legislature.

Salary and
expenses

(3) The accounts and financial transactions of the office of the Commissioner shall be audited annually by the Provincial Auditor.

Audit

PART II

FREEDOM OF INFORMATION

ACCESS TO RECORDS

10.—(1) Every person has a right of access to a record or a part of a record in the custody or under the control of an institution unless the record or the part of the record falls within one of the exemptions under sections 12 to 22.

Right of
access

(2) Where an institution receives a request for access to a record that contains information that falls within one of the exemptions under sections 12 to 22, the head shall disclose as much of the record as can reasonably be severed without disclosing the information that falls under one of the exemptions.

Severability
of record

Obligation
to disclose

11.—(1) Despite any other provision of this Act, a head shall, as soon as practicable, disclose any record to the public or persons affected if the head has reasonable and probable grounds to believe that it is in the public interest to do so and that the record reveals a grave environmental, health or safety hazard to the public.

Notice

(2) Before disclosing a record under subsection (1), the head shall cause notice to be given to any person to whom the information in the record relates, if it is practicable to do so.

Contents of
notice

(3) The notice shall contain,

- (a) a statement that the head intends to release a record or a part of a record that may effect the interests of the person;
- (b) a description of the contents of the record or part that relate to the person; and
- (c) a statement that if the person makes representations forthwith to the head as to why the record or part thereof should not be disclosed, those representations will be considered by the head.

Representa-
tions

(4) A person who is given notice under subsection (2) may make representations forthwith to the head concerning why the record or part should not be disclosed.

EXEMPTIONS

Cabinet
records

12.—(1) A head shall refuse to disclose a record where the disclosure would reveal the substance of deliberations of an Executive Council or its committees, including,

- (a) an agenda, minute or other record of the deliberations or decisions of the Executive Council or its committees;
- (b) a record containing policy options or recommendations submitted, or prepared for submission, to the Executive Council or its committees;
- (c) a record that does not contain policy options or recommendations referred to in clause (b) and that does contain background explanations or analyses of problems submitted, or prepared for submission, to the Executive Council or its committees for their consideration in making decisions, before those decisions are made and implemented;

- (d) a record used for or reflecting consultation among ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy;
- (e) a record prepared to brief a minister of the Crown in relation to matters that are before or are proposed to be brought before the Executive Council or its committees, or are the subject of consultations among ministers relating to government decisions or the formulation of government policy; and
- (f) draft legislation or regulations.

(2) Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record where, Exception

- (a) the record is more than twenty years old; or
- (b) the Executive Council for which, or in respect of which, the record has been prepared consents to access being given.

13.—(1) A head may refuse to disclose a record where the disclosure would reveal advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution. Advice to government

(2) Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record that contains, Exception

- (a) factual material;
- (b) a statistical survey;
- (c) a report by a valuator, whether or not the valuator is an officer of the institution;
- (d) an environmental impact statement or similar record;
- (e) a report of a test carried out on a product for the purpose of government equipment testing or a consumer test report;
- (f) a report or study on the performance or efficiency of an institution, whether the report or study is of a general nature or is in respect of a particular program or policy;

- (g) a feasibility study or other technical study, including a cost estimate, relating to a government policy or project;
- (h) a report containing the results of field research undertaken before the formulation of a policy proposal;
- (i) a final plan or proposal to change a program of an institution, or for the establishment of a new program, including a budgetary estimate for the program, whether or not the plan or proposal is subject to approval, unless the plan or proposal is to be submitted to the Executive Council or its committees;
- (j) a report of an interdepartmental committee task force or similar body, or of a committee or task force within an institution, which has been established for the purpose of preparing a report on a particular topic, unless the report is to be submitted to the Executive Council or its committees;
- (k) a report of a committee, council or other body which is attached to an institution and which has been established for the purpose of undertaking inquiries and making reports or recommendations to the institution;
- (l) the reasons for a final decision, order or ruling of an officer of the institution made during or at the conclusion of the exercise of discretionary power conferred by or under an enactment or scheme administered by the institution, whether or not the enactment or scheme allows an appeal to be taken against the decision, order or ruling, whether or not the reasons,
 - (i) are contained in an internal memorandum of the institution or in a letter addressed by an officer or employee of the institution to a named person, or
 - (ii) were given by the officer who made the decision, order or ruling or were incorporated by reference into the decision, order or ruling.

Idem

(3) Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record where the record is more than twenty years old or where the head has publicly cited the

record as the basis for making a decision or formulating a policy.

14.—(1) A head may refuse to disclose a record where the disclosure could reasonably be expected to, Law
enforcement

- (a) interfere with a law enforcement matter;
- (b) interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (c) reveal investigative techniques and procedures currently in use or likely to be used in law enforcement;
- (d) disclose the identity of a confidential source of information in respect of a law enforcement matter, or disclose information furnished only by the confidential source;
- (e) endanger the life or physical safety of a law enforcement officer or any other person;
- (f) deprive a person of the right to a fair trial or impartial adjudication;
- (g) interfere with the gathering of or reveal law enforcement intelligence information respecting organizations or persons;
- (h) reveal a record which has been confiscated from a person by a peace officer in accordance with an Act or regulation;
- (i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;
- (j) facilitate the escape from custody of a person who is under lawful detention;
- (k) jeopardize the security of a centre for lawful detention; or
- (l) facilitate the commission of an unlawful act or hamper the control of crime.

Idem

(2) A head may refuse to disclose a record,

- (a) that is a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law;
- (b) that is a law enforcement record where the disclosure would constitute an offence under an Act of Parliament;
- (c) that is a law enforcement record where the disclosure could reasonably be expected to expose the author of the record or any person who has been quoted or paraphrased in the record to civil liability; or
- (d) that contains information about the history, supervision or release of a person under the control or supervision of a correctional authority.

Refusal to
confirm or
deny
existence
of record
Exception

(3) A head may refuse to confirm or deny the existence of a record to which subsection (1) or (2) apply.

(4) Despite clause (2) (a), a head shall disclose a record that is a report prepared in the course of routine inspections by an agency where that agency is authorized to enforce and regulate compliance with a particular statute of Ontario.

Idem

(5) Subsections (1) and (2) do not apply to a record on the degree of success achieved in a law enforcement program including statistical analyses unless disclosure of such a record may prejudice, interfere with or adversely affect any of the matters referred to in those subsections.

Relations
with other
governments

15. A head may refuse to disclose a record where the disclosure could reasonably be expected to,

- (a) prejudice the conduct of intergovernmental relations by the Government of Ontario or an institution;
- (b) reveal information received in confidence from another government or its agencies by an institution; or
- (c) reveal information received in confidence from an international organization of states or a body thereof by an institution,

and shall not disclose any such record without the prior approval of the Executive Council.

16. A head may refuse to disclose a record where the disclosure could reasonably be expected to prejudice the defence of Canada or of any foreign state allied or associated with Canada or be injurious to the detection, prevention or suppression of espionage, sabotage or terrorism and shall not disclose any such record without the prior approval of the Executive Council.

Defence

17.—(1) A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to,

Third party
information

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied; or
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency.

(2) A head may disclose a record described in subsection (1) if the person to whom the information relates consents to the disclosure.

Consent to
disclosure

18.—(1) A head may refuse to disclose a record that contains,

Economic
and other
interests
of Ontario

- (a) trade secrets or financial, commercial, scientific or technical information that belongs to the Government of Ontario or an institution and has monetary value or potential monetary value;
- (b) information obtained through research by an employee of an institution where the disclosure could reasonably be expected to deprive the employee of priority of publication;
- (c) information where the disclosure could reasonably be expected to prejudice the economic interests of

an institution or the competitive position of an institution;

- (d) information where the disclosure could reasonably be expected to be injurious to the financial interests of the Government of Ontario or the ability of the Government of Ontario to manage the economy of Ontario;
- (e) positions, plans, procedures, criteria or instructions to be applied to any negotiations carried on or to be carried on by or on behalf of an institution or the Government of Ontario;
- (f) plans relating to the management of personnel or the administration of an institution that have not yet been put into operation or made public;
- (g) information including the proposed plans, policies or projects of an institution where the disclosure could reasonably be expected to result in premature disclosure of a pending policy decision or undue financial benefit or loss to a person.

Exception

(2) A head shall not refuse under subsection (1) to disclose a record that contains the results of product or environmental testing carried out by or for an institution, unless,

- (a) the testing was done as a service to a person, a group of persons or an organization other than an institution and for a fee; or
- (b) the testing was conducted as preliminary or experimental tests for the purpose of developing methods of testing.

Solicitor-client privilege

19. A head may refuse to disclose a record that is subject to solicitor-client privilege or that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation.

Danger to safety or health

20. A head may refuse to disclose a record where the disclosure could reasonably be expected to seriously threaten the safety or health of an individual.

Personal privacy

21.—(1) A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

- (a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;
- (b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;
- (c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;
- (d) under an Act of Ontario or Canada that expressly authorizes the disclosure;
- (e) for a research purpose if,
 - (i) the disclosure is consistent with the conditions or reasonable expectations of disclosure under which the personal information was provided, collected or obtained,
 - (ii) the research purpose for which the disclosure is to be made cannot be reasonably accomplished unless the information is provided in individually identifiable form, and
 - (iii) terms and conditions relating to,
 - (A) security and confidentiality,
 - (B) the removal or destruction of the individual identifier or identifiers associated with the record at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research or statistical project, and
 - (C) the prohibition of any subsequent use or disclosure of the record in individually identifiable form without the express authorization of the institution,

have been approved by the responsible minister and the person obtaining the record has filed with the responsible minister a written statement indicating that the person under-

stands and will abide by the terms and conditions; or

- (f) if the disclosure does not constitute an unjustified invasion of personal privacy.

Criteria re
invasion of
privacy

(2) A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

- (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;
- (b) access to the personal information may promote public health and safety;
- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable;
- (h) the personal information has been supplied by the individual to whom the information relates in confidence; and
- (i) the disclosure may unfairly damage the reputation of any person referred to in the record.

Presumed
invasion
of privacy

(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

- (b) was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
- (c) relates to eligibility for social service or welfare benefits or to the determination of benefit levels;
- (d) relates to employment or educational history;
- (e) was obtained on a tax return or gathered for the purpose of collecting a tax;
- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
- (g) consists of personal recommendations or evaluations, character references or personnel evaluations; or
- (h) indicates the individual's racial or ethnic origin, sexual orientation or religious or political beliefs or associations.

(4) Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it, Limitation

- (a) discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution or a member of the staff of a minister;
- (b) discloses financial or other details of a contract for personal services between an individual and an institution; or
- (c) discloses details of a licence or permit or a similar discretionary financial benefit conferred on an individual by an institution or a head under circumstances where,
 - (i) the individual represents 1 per cent or more of all persons and organizations in Ontario receiving a similar benefit, and
 - (ii) the value of the benefit to the individual represents 1 per cent or more of the total value of similar benefits provided to other persons and organizations in Ontario.

Refusal to
confirm or
deny
existence of
record

(5) A head may refuse to confirm or deny the existence of a record if disclosure of the record would constitute an unjustified invasion of personal privacy.

Information
soon to be
published

22. A head may refuse to disclose a record where,

- (a) the record or the information contained in the record has been published or is currently available to the public; or
- (b) the head believes on reasonable grounds that the record or the information contained in the record will be published by an institution within ninety days after the request is made or within such further period of time as may be necessary for printing or translating the material for the purpose of printing it.

Exemptions
not to apply

23. An exemption from disclosure of a record under sections 13, 15, 17, 18, 20 and 21 does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

ACCESS PROCEDURE

Request

24.—(1) A person seeking access to a record shall make a request therefor in writing to the institution that the person believes has custody or control of the record and shall provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record.

Sufficiency
of detail

(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).



Request for
continuing
access to
record

(3) The applicant may indicate in the request that it shall, if granted, continue to have effect for a specified period of up to two years.

Institution to
provide
schedule

(4) When a request that is to continue to have effect is granted, the institution shall provide the applicant with,

- (a) a schedule showing dates in the specified period on which the request shall be deemed to have been received again, and explaining why those dates were chosen; and
- (b) a statement that the applicant may ask the Commissioner to review the schedule.

(5) This Act applies as if a new request were being made on each of the dates shown in the schedule.

Act applies as if new requests were being made

25.—(1) Where an institution receives a request for access to a record that the institution does not have in its custody or under its control, the head shall make all necessary inquiries to determine whether another institution has custody or control of the record, and where the head determines that another institution has custody or control of the record, the head shall within 15 days after the request is received,

Request to be forwarded

- (a) forward the request to the other institution; and
- (b) give written notice to the person who made the request that it has been forwarded to the other institution.

(2) Where an institution receives a request for access to a record and the head considers that another institution has a greater interest in the record, the head may transfer the request and, if necessary, the record to the other institution, within fifteen days after the request is received, in which case the head transferring the request shall give written notice of the transfer to the person who made the request.

Transfer of request

(3) For the purpose of subsection (2), another institution has a greater interest in a record than the institution that receives the request for access if,

Greater interest

- (a) the record was originally produced in or for the other institution; or
- (b) in the case of a record not originally produced in or for an institution, the other institution was the first institution to receive the record or a copy thereof.

(4) Where a request is forwarded or transferred under subsection (1) or (2), the request shall be deemed to have been made to the institution to which it is forwarded or transferred on the day the institution to which the request was originally made received it.

When transferred request deemed made

26. Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 25, the head of the institution to which it is forwarded or transferred, shall, subject to sections 27 and 28, within thirty days after the request is received,

Notice by head

- (a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and
- (b) if access is to be given, give the person who made the request access to the record or part thereof, and where necessary for the purpose cause the record to be produced.

Extension
of time

27.—(1) A head may extend the time limit set out in section 26 for a period of time that is reasonable in the circumstances, where,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution; or
- (b) consultations that cannot reasonably be completed within the time limit are necessary to comply with the request.

Notice of
extension

(2) Where a head extends the time limit under subsection (1), the head shall give the person who made the request written notice of the extension setting out,

- (a) the length of the extension;
- (b) the reason for the extension; and
- (c) that the person who made the request may ask the Commissioner to review the extension.

Notice to
affected
person

28.—(1) Before a head grants a request for access to a record,

- (a) that the head has reason to believe might contain information referred to in subsection 17 (1) that affects the interest of a person other than the person requesting information; or
- (b) that is personal information that the head has reason to believe might constitute an unjustified invasion of personal privacy for the purposes of clause 21 (1) (f),

the head shall give written notice in accordance with subsection (2) to the person to whom the information relates.

Contents
of notice

(2) The notice shall contain,

- (a) a statement that the head intends to release a record or part thereof that may affect the interests of the person;
- (b) a description of the contents of the record or part thereof that relate to the person; and
- (c) a statement that the person may, within twenty days after the notice is given, make representations to the head as to why the record or part thereof should not be disclosed.

(3) The notice referred to in subsection (1) shall be given within thirty days after the request for access is received or, where there has been an extension of a time limit under subsection 27 (1), within that extended time limit.

Time for
notice

(4) Where a head gives notice to a person under subsection (1), the head shall also give the person who made the request written notice of delay, setting out,

Notice of
delay

- (a) that the record or part thereof may affect the interests of another party;
- (b) that the other party is being given an opportunity to make representations concerning disclosure; and
- (c) that the head will within thirty days decide whether or not to disclose the record.

(5) Where a notice is given under subsection (1), the person to whom the information relates may, within twenty days after the notice is given, make representations to the head as to why the record or the part thereof should not be disclosed.

Representa-
tion
re disclosure

(6) Representations under subsection (5) shall be made in writing unless the head permits them to be made orally.

Representa-
tion
in writing

(7) The head shall, within thirty days after the notice under subsection (1) is given, but not before the earlier of,

Decision re
disclosure

- (a) the day the response to the notice from the person to whom the information relates is received; or
- (b) twenty-one days after the notice is given,

decide whether or not to disclose the record or the part thereof and give written notice of the decision to the person to whom the information relates and the person who made the request.

Notice of
head's
decision
to disclose

(8) Where a head decides to disclose a record or part thereof under subsection (7), the head shall state in the notice that,

- (a) the person to whom the information relates may appeal the decision to the Commissioner within thirty days after the notice is given; and
- (b) the person who made the request will be given access to the record or to a part thereof, unless an appeal of the decision is commenced within thirty days after the notice is given.

Access to be
given unless
affected
person
appeals

(9) Where, under subsection (7), the head decides to disclose the record or a part thereof, the head shall give the person who made the request access to the record or part thereof within thirty days after notice is given under subsection (7), unless the person to whom the information relates asks the Commissioner to review the decision.

Contents of
notice of
refusal

29.—(1) Notice of refusal to give access to a record or a part thereof under section 26 shall set out,

- (a) where there is no such record, that there is no such record; or
- (b) where there is such a record,
 - (i) the specific provision of this Act under which access is refused,
 - (ii) the reason the provision applies to the record,
 - (iii) the name and position of the person responsible for making the decision, and
 - (iv) that the person who made the request may appeal to the Commissioner for a review of the decision.

Idem

(2) Where a head refuses to confirm or deny the existence of a record as provided in subsection 14 (3) (law enforcement) or subsection 21 (5) (unjustified invasion of personal privacy), the head shall state in the notice given under section 26,

- (a) that the head refuses to confirm or deny the existence of the record;
- (b) the provision of this Act on which the refusal is based;

- (c) the name and office of the person responsible for making the decision; and
- (d) that the person who made the request may appeal to the Commissioner for a review of the decision.

(3) Where a head refuses to disclose a record or part thereof under subsection 28 (7), the head shall state in the notice given under subsection 28 (7), Idem

- (a) the specific provision of this Act under which access is refused;
- (b) the reason the provision named in clause (a) applies to the record;
- (c) the name and office of the person responsible for making the decision to refuse access; and
- (d) that the person who made the request may appeal to the Commissioner for a review of the decision.

(4) A head who fails to give the notice required under section 26 or subsection 28 (7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given. Deemed refusal

30.—(1) Subject to subsection (2), a person who is given access to a record or a part thereof under this Act shall be given a copy thereof unless it would not be reasonably practicable to reproduce the record or part thereof by reason of its length or nature, in which case the person shall be given an opportunity to examine the record or part thereof in accordance with the regulations. Copy of record

(2) Where a person requests the opportunity to examine a record or a part thereof and it is reasonably practicable to give the person that opportunity, the head shall allow the person to examine the record or part thereof in accordance with the regulations. Access to original record

(3) Where a person examines a record or a part thereof and wishes to have portions of it copied, the person shall be given a copy of those portions unless it would not be reasonably practicable to reproduce them by reason of their length or nature. Copy of part

INFORMATION TO BE PUBLISHED OR AVAILABLE

Publication
of
information
re institutions

31. The responsible minister shall cause to be published annually a compilation listing all institutions and, in respect of each institution, setting out,

- (a) where a request for a record should be made;
- (b) the name and office of the head of the institution;
- (c) where the material referred to in sections 32, 33, 34 and 45 has been made available; and
- (d) whether the institution has a library or reading room which is available for public use, and if so, its address.

Operation of
institutions

32. The responsible minister shall cause to be published annually an indexed compilation containing,

- (a) a description of the organization and responsibilities of each institution including details of the programs and functions of each division or branch of each institution;
- (b) a list of the general classes or types of records prepared by or in the custody or control of each institution;
- (c) the title, business telephone number and business address of the head of each institution; and
- (d) any amendment of information referred to in clause (a), (b) or (c) that has been made available in accordance with this section.

Institution
documents

33.—(1) A head shall make available, in the manner described in section 35,

- (a) manuals, directives or guidelines prepared by the institution, issued to its officers and containing interpretations of the provisions of any enactment or scheme administered by the institution where the interpretations are to be applied by, or are to be guidelines for, any officer who determines,
 - (i) an application by a person for a right, privilege or benefit which is conferred by the enactment or scheme,

- (ii) whether to suspend, revoke or impose new conditions on a right, privilege or benefit already granted to a person under the enactment or scheme, or
- (iii) whether to impose an obligation or liability on a person under the enactment or scheme; or
- (b) instructions to, and guidelines for, officers of the institution on the procedures to be followed, the methods to be employed or the objectives to be pursued in their administration or enforcement of the provisions of any enactment or scheme administered by the institution that affects the public.

(2) A head may delete from a document made available under subsection (1) any record or part of a record which the head would be entitled to refuse to disclose where the head includes in the document, Deletions

- (a) a statement of the fact that a deletion has been made;
- (b) a brief statement of the nature of the record which has been deleted; and
- (c) a reference to the provision of this Act on which the head relies.

34.—(1) A head shall make an annual report, in accordance with subsection (2), to the Commissioner. Annual report of head

(2) A report made under subsection (1) shall specify, Contents of report

- (a) the number of requests under this Act for access to records made to the institution;
- (b) the number of refusals by the head to disclose a record, the provisions of this Act under which disclosure was refused and the number of occasions on which each provision was invoked;
- (c) for each provision of this Act in respect of which an appeal of a decision of a head has been commenced, the number of appeals commenced;
- (d) the number of uses or purposes for which personal information is disclosed where the use or purpose is not included in the statements of uses and purposes set forth under clauses 45 (d) and (e);

- (e) the amount of fees collected by the institution under section 57; and
- (f) any other information indicating an effort by the institution to put into practice the purposes of this Act.

Documents
made
available

35.—(1) The responsible minister shall cause the materials described in sections 31, 32 and 45 to be made generally available for inspection and copying by the public and shall cause them to be made available to the public in the reading room, library or office designated by each institution for this purpose.

Idem

(2) Every head shall cause the materials described in sections 33 and 34 to be made available to the public in the reading room, library or office designated by each institution for this purpose.

Information
from heads

36. Every head shall provide to the responsible minister at the responsible minister's request, the information needed by the responsible minister to prepare the materials described in sections 31, 32 and 45.

PART III

PROTECTION OF INDIVIDUAL PRIVACY

COLLECTION AND RETENTION OF PERSONAL INFORMATION

Application
of Part

37. This Part does not apply to personal information that is maintained for the purpose of creating a record that is available to the general public.

Definition

38.—(1) In this section and in section 39, "personal information" includes information that is not recorded and that is otherwise defined as "personal information" under this Act.

Collection of
personal
information

(2) No person shall collect personal information on behalf of an institution unless the collection is expressly authorized by statute, used for the purposes of law enforcement or necessary to the proper administration of a lawfully authorized activity.

Manner of
collection

39.—(1) Personal information shall only be collected by an institution directly from the individual to whom the information relates unless,

- (a) the individual authorizes another manner of collection;
- (b) the personal information may be disclosed to the institution concerned under section 42;
- (c) the Commissioner has authorized the manner of collection under clause 59 (c);
- (d) the information is in a report from a reporting agency in accordance with the *Consumer Reporting Act*; R.S.O. 1980, c. 89
- (e) the information is collected for the purpose of determining suitability for an honour or award to recognize outstanding achievement or distinguished service;
- (f) the information is collected for the purpose of the conduct of a proceeding or a possible proceeding before a court or judicial or quasi-judicial tribunal;
- (g) the information is collected for the purpose of law enforcement; or
- (h) another manner of collection is authorized by or under a statute.

(2) Where personal information is collected on behalf of an institution, the head shall, unless notice is waived by the responsible minister, inform the individual to whom the information relates of, Notice to individual

- (a) the legal authority for the collection;
- (b) the principal purpose or purposes for which the personal information is intended to be used; and
- (c) the title, business address and business telephone number of a public official who can answer the individual's questions about the collection.

(3) Subsection (2) does not apply where the head may refuse to disclose the personal information under subsection 14 (1) or (2) (law enforcement). Exception

40.—(1) Personal information that has been used by an institution shall be retained after use by the institution for the period prescribed by regulation in order to ensure that the Retention of personal information

individual to whom it relates has a reasonable opportunity to obtain access to the personal information.

Standard
of accuracy

(2) The head of an institution shall take reasonable steps to ensure that personal information on the records of the institution is not used unless it is accurate and up to date.

Exception

(3) Subsection (2) does not apply to personal information collected for law enforcement purposes,

- (a) where the recipient works for an institution involved in law enforcement; or
- (b) where the head of the institution informs the recipient of the information that it may not be reliable.

Disposal of
personal
information

(4) A head shall dispose of personal information under the control of the institution in accordance with the regulations and in accordance with any directives or guidelines issued by the responsible minister.

USE AND DISCLOSURE OF PERSONAL INFORMATION

Use of
personal
information

41. An institution shall not use personal information in its custody or under its control except,

- (a) where the person to whom the information relates has identified that information in particular and consented to its use;
- (b) for the purpose for which it was obtained or compiled or for a consistent purpose; or
- (c) for a purpose for which the information may be disclosed to the institution under section 42.

Where
disclosure
permitted

42. An institution shall not disclose personal information in its custody or under its control except,

- (a) in accordance with Part II;
- (b) where the person to whom the information relates has identified that information in particular and consented to its disclosure;
- (c) for the purpose for which it was obtained or compiled or for a consistent purpose;
- (d) where disclosure is made to an officer or employee of the institution who needs the record in the per-

formance of his or her duties and where disclosure is necessary and proper in the discharge of the institution's functions;

- (e) for the purpose of complying with an Act of the Legislature or an Act of Parliament or a treaty, agreement or arrangement thereunder;
- (f) where disclosure is by a law enforcement institution,
 - (i) to a law enforcement agency in a foreign country under an arrangement, a written agreement or treaty or legislative authority, or
 - (ii) to another law enforcement agency in Canada;
- (g) where disclosure is to an institution or a law enforcement agency in Canada to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (h) in compelling circumstances affecting the health or safety of an individual if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;
- (i) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
- (j) to a member of the Legislative Assembly who has been authorized by a constituent to whom the information relates to make an inquiry on the constituent's behalf or, where the constituent is incapacitated, has been authorized by the next of kin or legal representative of the constituent;
- (k) to a member of the bargaining agent who has been authorized by an employee to whom the information relates to make an inquiry on the employee's behalf or, where the employee is incapacitated, has been authorized by the next-of-kin or legal representative of the employee;
- (l) to the Provincial Auditor;
- (m) to the Ombudsman;

- (n) to the responsible minister;
- (o) to the Information and Privacy Commissioner;
- (p) to the Government of Canada in order to facilitate the auditing of shared cost programs;
- (q) to the Archives of Ontario; and
- (r) to Statistics Canada.

Consistent
purpose

43. Where personal information has been collected directly from the individual to whom the information relates, the purpose of a use or disclosure of that information is a consistent purpose under clauses 41 (b) and 42 (c) only if the individual might reasonably have expected such a use or disclosure.

PERSONAL INFORMATION BANKS

Personal
information
banks

44. A head shall cause to be included in a personal information bank all personal information under the control of the institution that is organized or intended to be retrieved by the individual's name or by an identifying number, symbol or other particular assigned to the individual.

Personal
information
bank index

45. The responsible minister shall publish at least once each year an index of all personal information banks setting forth, in respect of each personal information bank,

- (a) its name and location;
- (b) the legal authority for its establishment;
- (c) the types of personal information maintained in it;
- (d) the principal uses of the personal information and the typical categories of users to whom disclosures from the system are made;
- (e) any other uses and purposes for which personal information in the personal information bank is used or disclosed on a regular basis;
- (f) the categories of individuals for whom records are maintained in the system;
- (g) the policies and practices applicable to the system with respect to storage, retrievability, access con-

trols, retention and disposal of personal information maintained in the system; and

- (h) the title, business address and business telephone number of the official responsible for the operation of the personal information bank.

46.—(1) A head shall retain a record of any use by the institution of personal information contained in a personal information bank and of any use or purpose for which the information is disclosed where the use or purpose is not included in the statements of uses and purposes set forth under clauses 45 (d) and (e) and shall attach or link the record of use to the personal information.

Retention of
record of use

(2) A record retained under subsection (1) forms part of the personal information to which it is attached or linked.

Record of
use part of
personal
information

(3) Where the personal information in a personal information bank under the control of an institution is used or disclosed for a use consistent with the purpose for which the information was obtained or compiled by the institution but the use is not one of the uses included under clauses 45 (d) and (e), the head shall,

Notice and
publication

- (a) forthwith notify the responsible minister of the use or disclosure; and
- (b) ensure that the use is included in the index.

RIGHT OF INDIVIDUAL TO WHOM PERSONAL INFORMATION RELATES TO ACCESS AND CORRECTION

47.—(1) Every individual has a right of access to,

Right of
access to
personal
information

- (a) any personal information about the individual contained in a personal information bank in the custody or under the control of an institution; and
- (b) any other personal information about the individual in the custody or under the control of an institution with respect to which the individual is able to provide sufficiently specific information to render it reasonably retrievable by the institution.

(2) Every individual who is given access under subsection (1) to personal information is entitled to,

Right of
correction

- (a) request correction of the personal information where the individual believes there is an error or omission therein;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
- (c) require that any person or body to whom the personal information has been disclosed within the year before the time a correction is requested or a statement of disagreement is required be notified of the correction or statement of disagreement.

Request

48.—(1) An individual seeking access to personal information about the individual shall make a request therefor in writing to the institution that the individual believes has custody or control of the personal information and shall identify the personal information bank or otherwise identify the location of the personal information.

Access
procedures

(2) Subsections 10 (2) and 24 (2) and sections 25, 26, 27, 28 and 29 apply with necessary modifications to a request made under subsection (1).

Manner
of access

(3) Subject to the regulations, where an individual is to be given access to personal information requested under subsection (1), the head shall,

- (a) permit the individual to examine the personal information; or
- (b) provide the individual with a copy thereof.

Compre-
hensible
form

(4) Where access to personal information is to be given, the head shall ensure that the personal information is provided to the individual in a comprehensible form and in a manner which indicates the general terms and conditions under which the personal information is stored and used.

Exemptions

49. A head may refuse to disclose to the individual to whom the information relates personal information,

- (a) where section 12, 13, 14, 15, 16, 17, 18, 19, 20 or 22 would apply to the disclosure of that personal information;
- (b) where the disclosure would constitute an unjustified invasion of another individual's personal privacy;

- (c) that is evaluative or opinion material compiled solely for the purpose of determining suitability, eligibility or qualifications for employment or for the awarding of government contracts and other benefits where the disclosure would reveal the identity of a source who furnished information to the institution in circumstances where it may reasonably have been assumed that the identity of the source would be held in confidence;
- (d) that is medical information where the disclosure could reasonably be expected to prejudice the mental or physical health of the individual;
- (e) that is a correctional record where the disclosure could reasonably be expected to reveal information supplied in confidence; or
- (f) that is a research or statistical record.

PART IV

APPEAL

50.—(1) A person who has made a request for,

Right to
appeal

- (a) access to a record under subsection 24 (1);
- (b) access to personal information under subsection 48 (1); or
- (c) correction of personal information under subsection 47 (2),

or a person who is given notice of a request under subsection 28 (1) may appeal any decision of a head under this Act to the Commissioner.

(2) An appeal under subsection (1) shall be made within thirty days after the notice was given of the decision appealed from by filing with the Commissioner written notice of appeal.

Time for
application

(3) Upon receiving a notice of appeal, the Commissioner shall inform the head of the institution concerned and any other affected person of the notice of appeal.

Notice of
application
for appeal

(4) The *Ombudsman Act* does not apply in respect of a complaint for which an appeal is provided under this Act or to the Commissioner or the Commissioner's delegate acting under this Act.

Application
of
R.S.O. 1980,
c. 325

Mediator to
try to effect
settlement

51. The Commissioner may authorize a mediator to investigate the circumstances of any appeal and to try to effect a settlement of the matter under appeal.

Inquiry

52.—(1) Where a settlement is not effected under section 51, the Commissioner shall conduct an inquiry to review the head's decision.

R.S.O. 1980,
c. 484
not to apply

(2) The *Statutory Powers Procedure Act* does not apply to an inquiry under subsection (1).

Inquiry in
private

(3) The inquiry may be conducted in private.

Powers of
Commis-
sioner

(4) In an inquiry, the Commissioner may require to be produced to the Commissioner and may examine any record that is in the custody or under the control of an institution, despite Parts II and III of this Act or any other Act or privilege, and may enter and inspect any premises occupied by an institution for the purposes of the investigation.

Record not
retained by
Commis-
sioner

(5) The Commissioner shall not retain any information obtained from a record under subsection (4).

Examination
on site

(6) Despite subsection (4), a head may require that the examination of a record by the Commissioner be of the original at its site.

Notice of
entry

(7) Before entering any premises under subsection (4), the Commissioner shall notify the head of the institution occupying the premises of his or her purpose.

Examination
under oath

(8) The Commissioner may summon and examine on oath any person who, in the Commissioner's opinion, may have information relating to the inquiry, and for that purpose the Commissioner may administer an oath.

Evidence
privileged

(9) Anything said or any information supplied or any document or thing produced by a person in the course of an inquiry by the Commissioner under this Act is privileged in the same manner as if the inquiry were a proceeding in a court.

Protection

(10) Except on the trial of a person for perjury in respect of his or her sworn testimony, no statement made or answer given by that or any other person in the course of an inquiry by the Commissioner is admissible in evidence in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Commissioner shall be given against any person.

(11) A person giving a statement or answer in the course of an inquiry before the Commissioner shall be informed by the Commissioner of his or her right to object to answer any question under section 5 of the *Canada Evidence Act*.

Idem under
R.S.C. 1970,
c. E-10

(12) No person is liable to prosecution for an offence against any Act, other than this Act, by reason of his or her compliance with a requirement of the Commissioner under this section.

Prosecution

(13) The person who requested access to the record, the head of the institution concerned and any affected party shall be given an opportunity to make representations to the Commissioner, but no person is entitled to be present during, to have access to or to comment on representations made to the Commissioner by any other person.

Represent-
ations

(14) The person who requested access to the record, the head of the institution concerned and any affected party may be represented by counsel or an agent.

Right to
counsel

53. Where a head refuses access to a record or a part of a record, the burden of proof that the record or the part falls within one of the specified exemptions in this Act lies upon the head.

Burden
of proof

54.—(1) After all of the evidence for an inquiry has been received, the Commissioner shall make an order disposing of the issues raised by the appeal.

Order

(2) Where the Commissioner upholds a decision of a head that the head may refuse to disclose a record or a part of a record, the Commissioner shall not order the head to disclose the record or part.

Idem

(3) The Commissioner's order may contain any terms and conditions the Commissioner considers appropriate.

Terms and
conditions

(4) The Commissioner shall give the appellant and the persons who received notice of the appeal under subsection 50 (3) written notice of the order.

Notice of
order

55.—(1) The Commissioner or any person acting on behalf of or under the direction of the Commissioner shall not disclose any information that comes to their knowledge in the performance of their powers, duties and functions under this Act.

Confiden-
tiality

(2) The Commissioner or any person acting on behalf or under the direction of the Commissioner is not compellable to

Not
compellable
witness

give evidence in a court or in a proceeding of a judicial nature concerning anything coming to their knowledge in the exercise or performance of a power, duty or function under this Act.

Proceedings
privileged

(3) No proceeding lies against the Commissioner or against any person acting on behalf or under the direction of the Commissioner for anything done, reported or said in good faith in the course of the exercise or performance or purported exercise or performance of a power, duty or function under this Act.

Delegation
by
Commis-
sioner

56.—(1) The Commissioner may in writing delegate a power or duty granted to or vested in the Commissioner to an officer or officers employed by the Commissioner, except the power to delegate under this section, subject to such limitations, restrictions, conditions and requirements as the Commissioner may set out in the delegation.

Exception re
records under
s. 12 or 14

(2) The Commissioner shall not delegate to a person other than the Assistant Information Commissioner or the Assistant Privacy Commissioner his or her power to require a record referred to in section 12 or 14 to be produced and examined.

PART V

GENERAL

Costs

57.—(1) Where no provision is made for a charge or fee under any other Act, a head may require the person who makes a request for access to a record or for correction of a record to pay,

- (a) a search charge for every hour of manual search required in excess of two hours to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record; and
- (d) shipping costs.

Estimate
of costs

(2) The head of an institution shall, before giving access to a record, give the person requesting access a reasonable estimate of any amount that will be required to be paid under this Act that is over \$25.

Waiver of
payment

(3) A head may waive the payment of all or any part of an amount required to be paid under this Act where, in the

head's opinion, it is fair and equitable to do so after considering,

- (a) the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required by subsection (1);
- (b) whether the payment will cause a financial hardship for the person requesting the record;
- (c) whether dissemination of the record will benefit public health or safety;
- (d) whether the record contains personal information relating to the person who requested it; and
- (e) any other matter prescribed in the regulations.

(4) A person who is required to pay a fee under subsection (1) may ask the Commissioner to review the head's decision to charge a fee or the amount of the fee. Review

(5) The costs provided in this section shall be paid and distributed in the manner prescribed in the regulations. Disposition of payments

58.—(1) The Commissioner shall make an annual report, in accordance with subsection (2), to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. Annual report of Commissioner

(2) A report made under subsection (1) shall provide a comprehensive review of the effectiveness of this Act in providing access to information and protection of personal privacy including, Contents of report

- (a) a summary of the nature and ultimate resolutions of appeals carried out under subsection 50 (1);
- (b) an assessment of the extent to which institutions are complying with this Act; and
- (c) the Commissioner's recommendations with respect to the practices of particular institutions and with respect to proposed revisions to this Act and regulations.

59. The Commissioner may, Powers and duties of Commissioner

- (a) offer comment on the privacy protection implications of proposed legislative schemes or government programs;
- (b) after hearing the head, order an institution to,
 - (i) cease a collection practice, and
 - (ii) destroy collections of personal information,that contravene this Act;
- (c) in appropriate circumstances, authorize the collection of personal information otherwise than directly from the individual;
- (d) engage in or commission research into matters affecting the carrying out of the purposes of this Act; and
- ➡ (da) may conduct public education programs and provide information concerning this Act and the Commissioner's role and activities; ➡
- (e) receive representations from the public concerning the operation of this Act.

Regulations

60. The Lieutenant Governor in Council may make regulations,

- (a) respecting the procedures for access to original records under section 30;
- (b) respecting the procedures for access to personal information under subsection 48 (3);
- (c) prescribing the circumstances under which records capable of being produced from machine readable records are not included in the definition of "record" for the purposes of this Act;
- (d) setting standards for and requiring administrative, technical and physical safeguards to ensure the security and confidentiality of records and personal information under the control of institutions;
- (e) setting standards for the accuracy and completeness of personal information that is under the control of an institution;

- (f) prescribing time periods for the purposes of subsection 40 (1);
- (g) prescribing the payment and allocation of fees received under section 57;
- (h) prescribing matters to be considered in determining
 - whether to waive all or part of the costs required under section 57;
- (i) designating any agency, board, commission, corporation or other body as an institution and designating a head for each such institution;
- (j) prescribing forms and providing for their use;
- (k) respecting any matter the Lieutenant Governor in Council considers necessary to carry out effectively the purposes of this Act.

61.—(1) No person shall,

Offences

- (a) wilfully disclose personal information in contravention of this Act;
- (b) wilfully maintain a personal information bank that contravenes this Act;
- (c) make a request under this Act for access to or correction of personal information under false pretenses;
- (d) wilfully obstruct the Commissioner in the performance of his or her functions under this Act;
- (e) wilfully make a false statement to, mislead or attempt to mislead the Commissioner in the performance of his or her functions under this Act; or
- (f) wilfully fail to comply with an order of the Commissioner.

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine not exceeding \$5,000. Penalty

(3) A prosecution shall not be commenced under clause (1) (d), (e) or (f) without the consent of the Attorney General. Consent of
Attorney
General

Delegation
of head's
powers

62.—(1) A head may in writing delegate a power or duty granted or vested in the head to an officer or officers of the institution subject to such limitations, restrictions, conditions and requirements as the head may set out in the delegation.

Protection
from civil
proceeding

(2) No action or other proceeding lies against a head, or against a person acting on behalf or under the direction of the head, for damages resulting from the disclosure or non-disclosure in good faith of a record or any part of a record under this Act, or from the failure to give a notice required under this Act if reasonable care is taken to give the required notice.

Vicarious
liability
of Crown
preserved
R.S.O. 1980,
c. 393

(3) Subsection (2) does not by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act* relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (2) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (2) had not been enacted.

Vicarious
liability of
certain
institutions
preserved

(4) Subsection (2) does not relieve an institution of liability in respect of a tort committed by a person mentioned in subsection (2) to which it would otherwise be subject and the institution is liable for any such tort in a like manner as if subsection (2) had not been enacted.

Oral
requests

63.—(1) Where a head may give access to information under this Act, nothing in this Act prevents the head from giving access to that information in response to an oral request or in the absence of a request.

Pre-existing
access
preserved

(2) This Act shall not be applied to preclude access to information that is not personal information and to which access by the public was available by custom or practice immediately before this Act comes into force.

Crown
privilege

64.—(1) This Act does not impose any limitation on the information otherwise available by law to a party to litigation.

Powers of
courts and
tribunals

(2) This Act does not affect the power of a court or a tribunal to compel a witness to testify or compel the production of a document.

Application
of Act

65.—(1) This Act does not apply to records placed in the Archives of Ontario by or on behalf of a person or organization other than an institution.

Idem

(2) This Act does not apply to a record in respect of a patient in a psychiatric facility as defined by clause 1 (p) of the *Mental Health Act*, where the record,

R.S.O. 1980,
c. 262

- (a) is a clinical record as defined by clause 29 (1) (a) of the *Mental Health Act*; or
- (b) contains information in respect of the history, assessment, diagnosis, observation, examination, care or treatment of the patient.

(3) This Act does not apply to notes prepared by or for a person presiding in a proceeding in a court of Ontario if those notes are prepared for that person's personal use in connection with the proceeding. Idem

66. Any right or power conferred on an individual by this Act may be exercised, Exercise of rights of deceased, etc., persons

- (a) where the individual is deceased, by the individual's personal representative if exercise of the right or power relates to the administration of the individual's estate;
- (b) where a committee has been appointed for the individual or where the Public Trustee has become the individual's committee, by the committee; and
- (c) where the individual is less than sixteen years of age, by a person who has lawful custody of the individual.

67.—(1) The Standing Committee on the Legislative Assembly shall undertake a comprehensive review of all confidentiality provisions contained in Acts in existence on the day this Act comes into force and shall make recommendations to the Legislative Assembly regarding, Review of other Acts

- (a) the repeal of unnecessary or inconsistent provisions; and
- (b) the amendment of provisions that are inconsistent with this Act.

(2) This Act prevails over a confidentiality provision in any other Act unless the other Act specifically provides otherwise. Other Acts

(3) Subsection (2) shall not have effect until two years after this section comes into force. Idem

68. The Standing Committee on the Legislative Assembly shall, within three years after proclamation of this Act, undertake a comprehensive review of this Act and shall, within one Review of this Act

year after beginning that review, make recommendations to the Legislative Assembly regarding amendments to this Act.

69. Subsection 10 (1) of the *Public Service Act*, being chapter 418 of the *Revised Statutes of Ontario, 1980*, is amended by inserting after “legally” in the third line of the form of oath contained therein “authorized or”.

Application

70. This Act applies to any record in the custody or under the control of an institution regardless of whether it was recorded before or after this Act comes into force.

Crown bound

71. This Act binds the Crown.

Commence-
ment

72. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor, or on the 1st day of January, 1988, whichever comes first.

Short title

73. The short title of this Act is the *Freedom of Information and Protection of Privacy Act, 1987*.

Bill 34

(Chapter 25
Statutes of Ontario, 1987)

An Act to provide for Freedom of Information and Protection of Individual Privacy

The Hon. I. Scott
Attorney General



<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987

Bill 34**1987**

An Act to provide for Freedom of Information and Protection of Individual Privacy

CONTENTS

Section

1. Purposes
2. Definitions

PART I ADMINISTRATION

3. Responsible minister
4. Information and Privacy Commissioner
5. Nature of employment
6. Salary and expenses
7. Temporary Commissioner
8. Staff
9. Administration

PART II FREEDOM OF INFORMATION ACCESS TO INFORMATION

10. Right of Access
11. Obligation to disclose

EXEMPTIONS

12. Cabinet records
13. Advice to government
14. Law enforcement
15. Relations with other governments
16. Defence
17. Third party information
18. Economic and other interests of Ontario
19. Solicitor client privilege
20. Danger to safety or health
21. Personal privacy
22. Information to be published
23. Exemptions not to apply

ACCESS PROCEDURE

24. Request
25. Request to be forwarded or transferred
26. Notice by head

Section

27. Extension of time
28. Affected persons
29. Contents of notice of refusal
30. Access to record

INFORMATION TO BE PUBLISHED OR AVAILABLE

31. Publication of information re institutions
32. Operation of institutions
33. Institution documents
34. Annual report of head
35. Documents made available
36. Information from heads

PART III PROTECTION OF INDIVIDUAL PRIVACY

COLLECTION AND RETENTION OF PERSONAL INFORMATION

37. Application of Part
38. Collection of personal information
39. Manner of collection
40. Retention and disposal of personal information

USE AND DISCLOSURE OF PERSONAL INFORMATION

41. Use of personal information
42. Where disclosure permitted
43. Consistent purpose

PERSONAL INFORMATION BANKS

44. Personal information banks
45. Personal information bank index
46. Retention of record of use

Section

RIGHT OF INDIVIDUAL TO
WHOM PERSONAL
INFORMATION RELATES TO
ACCESS AND CORRECTION

47. Right of individual to whom
personal information relates to
access and correction
48. Procedure
49. Exemptions

PART IV
APPEAL

50. Right to appeal and application
51. Mediator to try to effect
settlement
52. Inquiry
53. Burden of proof
54. Order
55. Confidentiality
56. Delegation by Commissioner

Section

PART V
GENERAL

57. Costs
58. Annual report of Commissioner
59. Powers and duties of
Commissioner
60. Regulations
61. Offences
62. Delegation of head's powers and
liability of Crown
63. Oral requests
64. Crown privilege
65. Application of Act
66. Exercise of rights of deceased,
etc., persons
67. Review of other Acts
68. Review of this Act
69. *Public Service Act* amended
70. Application
71. Crown bound
72. Commencement
73. Short title

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

Purposes

1. The purposes of this Act are,

- (a) to provide a right of access to information under the
control of institutions in accordance with the principles that,
- (i) information should be available to the public,
 - (ii) necessary exemptions from the right of access
should be limited and specific, and
 - (iii) decisions on the disclosure of government
information should be reviewed independently
of government; and
- (b) to protect the privacy of individuals with respect to
personal information about themselves held by
institutions and to provide individuals with a right
of access to that information.

Definitions

2.—(1) In this Act,

“head”, in respect of an institution, means,

- (a) in the case of a ministry, the minister of the Crown who presides over the ministry, and
- (b) in the case of any other institution, the person designated as head of that institution in the regulations;

“Information and Privacy Commissioner” and “Commissioner” mean the Commissioner appointed under subsection 4 (1);

“institution” means,

- (a) a ministry of the Government of Ontario,
- (b) the corporation of every municipality in Ontario, every local board as defined by the *Municipal Affairs Act*, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario, and
- (c) any agency, board, commission, corporation or other body designated as an institution in the regulations;

R.S.O. 1980,
c. 303

“law enforcement” means,

- (a) policing,
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
- (c) the conduct of proceedings referred to in clause (b);

“personal information” means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except where they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

“personal information bank” means a collection of personal information that is organized and capable of being retrieved;

“record” means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes,

- (a) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof, and
- (b) subject to the regulations, any record that is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution;

“regulations” means the regulations made under this Act;

“responsible minister” means the minister of the Crown who is designated by order of the Lieutenant Governor in Council under section 3.

(2) Personal information does not include information about an individual who has been dead for more than thirty years. - Personal information

(3) Clause (b) in the definition of “institution” in subsection (1) shall not have effect until three years after this section comes into force. Effective date

(4) Clause (b) in the definition of “institution” in subsection (1) applies to every municipality, including a metropolitan, district and regional municipality and the County of Oxford. Municipality

(5) Where no head is designated under clause (b) in the definition of “head” in subsection (1) in respect of an institution, the minister responsible for that institution shall be deemed to be the head of that institution. Deemed head where no designation

PART I

ADMINISTRATION

3. The Lieutenant Governor in Council may by order designate a minister of the Crown to be the responsible minister for the purposes of this Act. Responsible minister

4.—(1) There shall be appointed, as an officer of the Legislature, an Information and Privacy Commissioner to exercise the powers and perform the duties prescribed by this Act. Information and Privacy Commissioner

(2) The Commissioner shall be appointed by the Lieutenant Governor in Council on the address of the Assembly. Appointment

(3) The Commissioner shall hold office for a term of five years and may be reappointed for a further term or terms, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the Assembly. Term and removal from office

(4) The Commissioner shall appoint an officer of his or her staff to be Assistant Information Commissioner and another officer of his or her staff to be Assistant Privacy Commissioner. Assistant Commissioners

Nature of
employment

5.—(1) The Commissioner shall work exclusively as Commissioner and shall not hold any other office under the Crown or engage in any other employment.

R.S.O. 1980,
cc. 418, 419
not to apply

(2) The *Public Service Act* and the *Public Service Superannuation Act* do not apply to the Commissioner.

Salary

6.—(1) The Commissioner shall be paid a salary to be fixed by the Lieutenant Governor in Council.

Idem

(2) The salary of the Commissioner shall not be reduced except on the address of the Assembly.

Expenses

(3) The Commissioner is entitled to be paid reasonable travelling and living expenses while absent from his or her ordinary place of residence in the exercise of any functions under this Act.

Pension
R.S.O. 1980,
c. 236

(4) Part II of the *Legislative Assembly Retirement Allowances Act*, except sections 15 and 16 and subsection 18 (5), applies with necessary modifications to the Commissioner in the same manner as if the Commissioner were a member of the Legislative Assembly and for the purpose,

“average annual remuneration” means the average annual salary of the Commissioner during any five years of his or her service, which years need not be consecutive, during which his or her salary was highest;

“remuneration” means the salary of the Commissioner.

Temporary
Commissioner

7. If, while the Legislature is not in session, the Commissioner dies, resigns or is unable or neglects to perform the functions of the office of Commissioner, the Lieutenant Governor in Council may appoint a Temporary Commissioner to hold office for a term of not more than six months who shall, while in such office, have the powers and duties of the Commissioner and shall be paid such salary or other remuneration and expenses as the Lieutenant Governor in Council may fix.

Staff

8.—(1) Subject to the approval of the Lieutenant Governor in Council, the Commissioner may employ mediators and any other officers and employees the Commissioner considers necessary for the efficient operation of the office and may determine their salary and remuneration and terms and conditions of employment.

Benefits

(2) The employee benefits applicable from time to time to the public servants of Ontario with respect to,

- (a) cumulative vacation and sick leave credits for regular attendance and payments in respect of such credits;
- (b) plans for group life insurance, medical-surgical insurance or long term income protection; and
- (c) the granting of leave of absence,

apply to the employees of the Commissioner and where such benefits are provided for in regulations made under the *Public Service Act*, the Commissioner, or any person authorized in writing by him or her, may exercise the powers and duties of a minister or deputy minister or of the Civil Service Commission under such regulations.

R.S.O. 1980,
c. 418

(3) The *Public Service Superannuation Act* applies to the permanent and probationary staff of the Commissioner as though the Commissioner were a commission designated by the Lieutenant Governor in Council under section 28 of that Act.

Employees'
superan-
nuation
benefits
R.S.O. 1980,
c. 419

9.—(1) The Commissioner may lease any premises and acquire any equipment and supplies necessary for the efficient operation of the office of the Commissioner.

Premises
and supplies

(2) The salary of the Commissioner and the expenses required for the operation of the office are payable out of moneys appropriated therefor by the Legislature.

Salary and
expenses

(3) The accounts and financial transactions of the office of the Commissioner shall be audited annually by the Provincial Auditor.

Audit

PART II

FREEDOM OF INFORMATION

ACCESS TO RECORDS

10.—(1) Every person has a right of access to a record or a part of a record in the custody or under the control of an institution unless the record or the part of the record falls within one of the exemptions under sections 12 to 22.

Right of
access

(2) Where an institution receives a request for access to a record that contains information that falls within one of the exemptions under sections 12 to 22, the head shall disclose as much of the record as can reasonably be severed without disclosing the information that falls under one of the exemptions.

Severability
of record

Obligation
to disclose

11.—(1) Despite any other provision of this Act, a head shall, as soon as practicable, disclose any record to the public or persons affected if the head has reasonable and probable grounds to believe that it is in the public interest to do so and that the record reveals a grave environmental, health or safety hazard to the public.

Notice

(2) Before disclosing a record under subsection (1), the head shall cause notice to be given to any person to whom the information in the record relates, if it is practicable to do so.

Contents of
notice

(3) The notice shall contain,

- (a) a statement that the head intends to release a record or a part of a record that may effect the interests of the person;
- (b) a description of the contents of the record or part that relate to the person; and
- (c) a statement that if the person makes representations forthwith to the head as to why the record or part thereof should not be disclosed, those representations will be considered by the head.

Representa-
tions

(4) A person who is given notice under subsection (2) may make representations forthwith to the head concerning why the record or part should not be disclosed.

EXEMPTIONS

Cabinet
records

12.—(1) A head shall refuse to disclose a record where the disclosure would reveal the substance of deliberations of an Executive Council or its committees, including,

- (a) an agenda, minute or other record of the deliberations or decisions of the Executive Council or its committees;
- (b) a record containing policy options or recommendations submitted, or prepared for submission, to the Executive Council or its committees;
- (c) a record that does not contain policy options or recommendations referred to in clause (b) and that does contain background explanations or analyses of problems submitted, or prepared for submission, to the Executive Council or its committees for their consideration in making decisions, before those decisions are made and implemented;

- (d) a record used for or reflecting consultation among ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy;
- (e) a record prepared to brief a minister of the Crown in relation to matters that are before or are proposed to be brought before the Executive Council or its committees, or are the subject of consultations among ministers relating to government decisions or the formulation of government policy; and
- (f) draft legislation or regulations.

(2) Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record where, Exception

- (a) the record is more than twenty years old; or
- (b) the Executive Council for which, or in respect of which, the record has been prepared consents to access being given.

13.—(1) A head may refuse to disclose a record where the disclosure would reveal advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution. Advice to government

(2) Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record that contains, Exception

- (a) factual material;
- (b) a statistical survey;
- (c) a report by a valuator, whether or not the valuator is an officer of the institution;
- (d) an environmental impact statement or similar record;
- (e) a report of a test carried out on a product for the purpose of government equipment testing or a consumer test report;
- (f) a report or study on the performance or efficiency of an institution, whether the report or study is of a general nature or is in respect of a particular program or policy;

- (g) a feasibility study or other technical study, including a cost estimate, relating to a government policy or project;
- (h) a report containing the results of field research undertaken before the formulation of a policy proposal;
- (i) a final plan or proposal to change a program of an institution, or for the establishment of a new program, including a budgetary estimate for the program, whether or not the plan or proposal is subject to approval, unless the plan or proposal is to be submitted to the Executive Council or its committees;
- (j) a report of an interdepartmental committee task force or similar body, or of a committee or task force within an institution, which has been established for the purpose of preparing a report on a particular topic, unless the report is to be submitted to the Executive Council or its committees;
- (k) a report of a committee, council or other body which is attached to an institution and which has been established for the purpose of undertaking inquiries and making reports or recommendations to the institution;
- (l) the reasons for a final decision, order or ruling of an officer of the institution made during or at the conclusion of the exercise of discretionary power conferred by or under an enactment or scheme administered by the institution, whether or not the enactment or scheme allows an appeal to be taken against the decision, order or ruling, whether or not the reasons,
 - (i) are contained in an internal memorandum of the institution or in a letter addressed by an officer or employee of the institution to a named person, or
 - (ii) were given by the officer who made the decision, order or ruling or were incorporated by reference into the decision, order or ruling.

Idem

(3) Despite subsection (1), a head shall not refuse under subsection (1) to disclose a record where the record is more than twenty years old or where the head has publicly cited the

record as the basis for making a decision or formulating a policy.

14.—(1) A head may refuse to disclose a record where the disclosure could reasonably be expected to, Law
enforcement

- (a) interfere with a law enforcement matter;
- (b) interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (c) reveal investigative techniques and procedures currently in use or likely to be used in law enforcement;
- (d) disclose the identity of a confidential source of information in respect of a law enforcement matter, or disclose information furnished only by the confidential source;
- (e) endanger the life or physical safety of a law enforcement officer or any other person;
- (f) deprive a person of the right to a fair trial or impartial adjudication;
- (g) interfere with the gathering of or reveal law enforcement intelligence information respecting organizations or persons;
- (h) reveal a record which has been confiscated from a person by a peace officer in accordance with an Act or regulation;
- (i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;
- (j) facilitate the escape from custody of a person who is under lawful detention;
- (k) jeopardize the security of a centre for lawful detention; or
- (l) facilitate the commission of an unlawful act or hamper the control of crime.

Idem

(2) A head may refuse to disclose a record,

- (a) that is a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law;
- (b) that is a law enforcement record where the disclosure would constitute an offence under an Act of Parliament;
- (c) that is a law enforcement record where the disclosure could reasonably be expected to expose the author of the record or any person who has been quoted or paraphrased in the record to civil liability; or
- (d) that contains information about the history, supervision or release of a person under the control or supervision of a correctional authority.

Refusal to
confirm or
deny
existence
of record
Exception

(3) A head may refuse to confirm or deny the existence of a record to which subsection (1) or (2) apply.

(4) Despite clause (2) (a), a head shall disclose a record that is a report prepared in the course of routine inspections by an agency where that agency is authorized to enforce and regulate compliance with a particular statute of Ontario.

Idem

(5) Subsections (1) and (2) do not apply to a record on the degree of success achieved in a law enforcement program including statistical analyses unless disclosure of such a record may prejudice, interfere with or adversely affect any of the matters referred to in those subsections.

Relations
with other
governments

15. A head may refuse to disclose a record where the disclosure could reasonably be expected to,

- (a) prejudice the conduct of intergovernmental relations by the Government of Ontario or an institution;
- (b) reveal information received in confidence from another government or its agencies by an institution; or
- (c) reveal information received in confidence from an international organization of states or a body thereof by an institution,

and shall not disclose any such record without the prior approval of the Executive Council.

16. A head may refuse to disclose a record where the disclosure could reasonably be expected to prejudice the defence of Canada or of any foreign state allied or associated with Canada or be injurious to the detection, prevention or suppression of espionage, sabotage or terrorism and shall not disclose any such record without the prior approval of the Executive Council. Defence

17.—(1) A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to, Third party information

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied; or
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency.

(2) A head may disclose a record described in subsection (1) if the person to whom the information relates consents to the disclosure. Consent to disclosure

18.—(1) A head may refuse to disclose a record that contains, Economic and other interests of Ontario

- (a) trade secrets or financial, commercial, scientific or technical information that belongs to the Government of Ontario or an institution and has monetary value or potential monetary value;
- (b) information obtained through research by an employee of an institution where the disclosure could reasonably be expected to deprive the employee of priority of publication;
- (c) information where the disclosure could reasonably be expected to prejudice the economic interests of

an institution or the competitive position of an institution;

- (d) information where the disclosure could reasonably be expected to be injurious to the financial interests of the Government of Ontario or the ability of the Government of Ontario to manage the economy of Ontario;
- (e) positions, plans, procedures, criteria or instructions to be applied to any negotiations carried on or to be carried on by or on behalf of an institution or the Government of Ontario;
- (f) plans relating to the management of personnel or the administration of an institution that have not yet been put into operation or made public;
- (g) information including the proposed plans, policies or projects of an institution where the disclosure could reasonably be expected to result in premature disclosure of a pending policy decision or undue financial benefit or loss to a person.

Exception

(2) A head shall not refuse under subsection (1) to disclose a record that contains the results of product or environmental testing carried out by or for an institution, unless,

- (a) the testing was done as a service to a person, a group of persons or an organization other than an institution and for a fee; or
- (b) the testing was conducted as preliminary or experimental tests for the purpose of developing methods of testing.

Solicitor-client
privilege

19. A head may refuse to disclose a record that is subject to solicitor-client privilege or that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation.

Danger
to safety
or health

20. A head may refuse to disclose a record where the disclosure could reasonably be expected to seriously threaten the safety or health of an individual.

Personal
privacy

21.—(1) A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

- (a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;
- (b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;
- (c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;
- (d) under an Act of Ontario or Canada that expressly authorizes the disclosure;
- (e) for a research purpose if,
 - (i) the disclosure is consistent with the conditions or reasonable expectations of disclosure under which the personal information was provided, collected or obtained,
 - (ii) the research purpose for which the disclosure is to be made cannot be reasonably accomplished unless the information is provided in individually identifiable form, and
 - (iii) terms and conditions relating to,
 - (A) security and confidentiality,
 - (B) the removal or destruction of the individual identifier or identifiers associated with the record at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research or statistical project, and
 - (C) the prohibition of any subsequent use or disclosure of the record in individually identifiable form without the express authorization of the institution,

have been approved by the responsible minister and the person obtaining the record has filed with the responsible minister a written statement indicating that the person under-

stands and will abide by the terms and conditions; or

- (f) if the disclosure does not constitute an unjustified invasion of personal privacy.

Criteria re
invasion of
privacy

(2) A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

- (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;
- (b) access to the personal information may promote public health and safety;
- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable;
- (h) the personal information has been supplied by the individual to whom the information relates in confidence; and
- (i) the disclosure may unfairly damage the reputation of any person referred to in the record.

Presumed
invasion
of privacy

(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

- (b) was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
- (c) relates to eligibility for social service or welfare benefits or to the determination of benefit levels;
- (d) relates to employment or educational history;
- (e) was obtained on a tax return or gathered for the purpose of collecting a tax;
- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
- (g) consists of personal recommendations or evaluations, character references or personnel evaluations; or
- (h) indicates the individual's racial or ethnic origin, sexual orientation or religious or political beliefs or associations.

(4) Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it, Limitation

- (a) discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution or a member of the staff of a minister;
- (b) discloses financial or other details of a contract for personal services between an individual and an institution; or
- (c) discloses details of a licence or permit or a similar discretionary financial benefit conferred on an individual by an institution or a head under circumstances where,
 - (i) the individual represents 1 per cent or more of all persons and organizations in Ontario receiving a similar benefit, and
 - (ii) the value of the benefit to the individual represents 1 per cent or more of the total value of similar benefits provided to other persons and organizations in Ontario.

Refusal to
confirm or
deny
existence of
record

(5) A head may refuse to confirm or deny the existence of a record if disclosure of the record would constitute an unjustified invasion of personal privacy.

Information
soon to be
published

22. A head may refuse to disclose a record where,

- (a) the record or the information contained in the record has been published or is currently available to the public; or
- (b) the head believes on reasonable grounds that the record or the information contained in the record will be published by an institution within ninety days after the request is made or within such further period of time as may be necessary for printing or translating the material for the purpose of printing it.

Exemptions
not to apply

23. An exemption from disclosure of a record under sections 13, 15, 17, 18, 20 and 21 does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

ACCESS PROCEDURE

Request

24.—(1) A person seeking access to a record shall make a request therefor in writing to the institution that the person believes has custody or control of the record and shall provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record.

Sufficiency
of detail

(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

Request for
continuing
access to
record

(3) The applicant may indicate in the request that it shall, if granted, continue to have effect for a specified period of up to two years.

Institution to
provide
schedule

(4) When a request that is to continue to have effect is granted, the institution shall provide the applicant with,

- (a) a schedule showing dates in the specified period on which the request shall be deemed to have been received again, and explaining why those dates were chosen; and
- (b) a statement that the applicant may ask the Commissioner to review the schedule.

(5) This Act applies as if a new request were being made on each of the dates shown in the schedule.

Act applies
as if new
requests were
being made

25.—(1) Where an institution receives a request for access to a record that the institution does not have in its custody or under its control, the head shall make all necessary inquiries to determine whether another institution has custody or control of the record, and where the head determines that another institution has custody or control of the record, the head shall within 15 days after the request is received,

Request to
be forwarded

(a) forward the request to the other institution; and

(b) give written notice to the person who made the request that it has been forwarded to the other institution.

(2) Where an institution receives a request for access to a record and the head considers that another institution has a greater interest in the record, the head may transfer the request and, if necessary, the record to the other institution, within fifteen days after the request is received, in which case the head transferring the request shall give written notice of the transfer to the person who made the request.

Transfer of
request

(3) For the purpose of subsection (2), another institution has a greater interest in a record than the institution that receives the request for access if,

Greater
interest

(a) the record was originally produced in or for the other institution; or

(b) in the case of a record not originally produced in or for an institution, the other institution was the first institution to receive the record or a copy thereof.

(4) Where a request is forwarded or transferred under subsection (1) or (2), the request shall be deemed to have been made to the institution to which it is forwarded or transferred on the day the institution to which the request was originally made received it.

When
transferred
request
deemed
made

26. Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 25, the head of the institution to which it is forwarded or transferred, shall, subject to sections 27 and 28, within thirty days after the request is received,

Notice
by head

- (a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and
- (b) if access is to be given, give the person who made the request access to the record or part thereof, and where necessary for the purpose cause the record to be produced.

Extension
of time

27.—(1) A head may extend the time limit set out in section 26 for a period of time that is reasonable in the circumstances, where,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution; or
- (b) consultations that cannot reasonably be completed within the time limit are necessary to comply with the request.

Notice of
extension

(2) Where a head extends the time limit under subsection (1), the head shall give the person who made the request written notice of the extension setting out,

- (a) the length of the extension;
- (b) the reason for the extension; and
- (c) that the person who made the request may ask the Commissioner to review the extension.

Notice to
affected
person

28.—(1) Before a head grants a request for access to a record,

- (a) that the head has reason to believe might contain information referred to in subsection 17 (1) that affects the interest of a person other than the person requesting information; or
- (b) that is personal information that the head has reason to believe might constitute an unjustified invasion of personal privacy for the purposes of clause 21 (1) (f),

the head shall give written notice in accordance with subsection (2) to the person to whom the information relates.

Contents
of notice

(2) The notice shall contain,

- (a) a statement that the head intends to release a record or part thereof that may affect the interests of the person;
- (b) a description of the contents of the record or part thereof that relate to the person; and
- (c) a statement that the person may, within twenty days after the notice is given, make representations to the head as to why the record or part thereof should not be disclosed.

(3) The notice referred to in subsection (1) shall be given within thirty days after the request for access is received or, where there has been an extension of a time limit under subsection 27 (1), within that extended time limit.

Time for notice

(4) Where a head gives notice to a person under subsection (1), the head shall also give the person who made the request written notice of delay, setting out,

Notice of delay

- (a) that the record or part thereof may affect the interests of another party;
- (b) that the other party is being given an opportunity to make representations concerning disclosure; and
- (c) that the head will within thirty days decide whether or not to disclose the record.

(5) Where a notice is given under subsection (1), the person to whom the information relates may, within twenty days after the notice is given, make representations to the head as to why the record or the part thereof should not be disclosed.

Representation
re disclosure

(6) Representations under subsection (5) shall be made in writing unless the head permits them to be made orally.

Representation
in writing

(7) The head shall, within thirty days after the notice under subsection (1) is given, but not before the earlier of,

Decision re
disclosure

- (a) the day the response to the notice from the person to whom the information relates is received; or
- (b) twenty-one days after the notice is given,

decide whether or not to disclose the record or the part thereof and give written notice of the decision to the person to whom the information relates and the person who made the request.

Notice of
head's
decision
to disclose

(8) Where a head decides to disclose a record or part thereof under subsection (7), the head shall state in the notice that,

- (a) the person to whom the information relates may appeal the decision to the Commissioner within thirty days after the notice is given; and
- (b) the person who made the request will be given access to the record or to a part thereof, unless an appeal of the decision is commenced within thirty days after the notice is given.

Access to be
given unless
affected
person
appeals

(9) Where, under subsection (7), the head decides to disclose the record or a part thereof, the head shall give the person who made the request access to the record or part thereof within thirty days after notice is given under subsection (7), unless the person to whom the information relates asks the Commissioner to review the decision.

Contents of
notice of
refusal

29.—(1) Notice of refusal to give access to a record or a part thereof under section 26 shall set out,

- (a) where there is no such record, that there is no such record; or
- (b) where there is such a record,
 - (i) the specific provision of this Act under which access is refused,
 - (ii) the reason the provision applies to the record,
 - (iii) the name and position of the person responsible for making the decision, and
 - (iv) that the person who made the request may appeal to the Commissioner for a review of the decision.

Idem

(2) Where a head refuses to confirm or deny the existence of a record as provided in subsection 14 (3) (law enforcement) or subsection 21 (5) (unjustified invasion of personal privacy), the head shall state in the notice given under section 26,

- (a) that the head refuses to confirm or deny the existence of the record;
- (b) the provision of this Act on which the refusal is based;

- (c) the name and office of the person responsible for making the decision; and
- (d) that the person who made the request may appeal to the Commissioner for a review of the decision.

(3)-Where a head refuses to disclose a record or part thereof under subsection 28 (7), the head shall state in the notice given under subsection 28 (7), Idem

- (a) the specific provision of this Act under which access is refused;
- (b) the reason the provision named in clause (a) applies to the record;
- (c) the name and office of the person responsible for making the decision to refuse access; and
- (d) that the person who made the request may appeal to the Commissioner for a review of the decision.

(4) A head who fails to give the notice required under section 26 or subsection 28 (7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given. Deemed refusal

30.—(1) Subject to subsection (2), a person who is given access to a record or a part thereof under this Act shall be given a copy thereof unless it would not be reasonably practicable to reproduce the record or part thereof by reason of its length or nature, in which case the person shall be given an opportunity to examine the record or part thereof in accordance with the regulations. Copy of record

(2) Where a person requests the opportunity to examine a record or a part thereof and it is reasonably practicable to give the person that opportunity, the head shall allow the person to examine the record or part thereof in accordance with the regulations. Access to original record

(3) Where a person examines a record or a part thereof and wishes to have portions of it copied, the person shall be given a copy of those portions unless it would not be reasonably practicable to reproduce them by reason of their length or nature. Copy of part

INFORMATION TO BE PUBLISHED OR AVAILABLE

Publication
of
information
re institutions

31. The responsible minister shall cause to be published annually a compilation listing all institutions and, in respect of each institution, setting out,

- (a) where a request for a record should be made;
- (b) the name and office of the head of the institution;
- (c) where the material referred to in sections 32, 33, 34 and 45 has been made available; and
- (d) whether the institution has a library or reading room which is available for public use, and if so, its address.

Operation of
institutions

32. The responsible minister shall cause to be published annually an indexed compilation containing,

- (a) a description of the organization and responsibilities of each institution including details of the programs and functions of each division or branch of each institution;
- (b) a list of the general classes or types of records prepared by or in the custody or control of each institution;
- (c) the title, business telephone number and business address of the head of each institution; and
- (d) any amendment of information referred to in clause (a), (b) or (c) that has been made available in accordance with this section.

Institution
documents

33.—(1) A head shall make available, in the manner described in section 35,

- (a) manuals, directives or guidelines prepared by the institution, issued to its officers and containing interpretations of the provisions of any enactment or scheme administered by the institution where the interpretations are to be applied by, or are to be guidelines for, any officer who determines,
 - (i) an application by a person for a right, privilege or benefit which is conferred by the enactment or scheme,

- (ii) whether to suspend, revoke or impose new conditions on a right, privilege or benefit already granted to a person under the enactment or scheme, or
 - (iii) whether to impose an obligation or liability on a person under the enactment or scheme; or
-
- (b) instructions to, and guidelines for, officers of the institution on the procedures to be followed, the methods to be employed or the objectives to be pursued in their administration or enforcement of the provisions of any enactment or scheme administered by the institution that affects the public.

(2) A head may delete from a document made available under subsection (1) any record or part of a record which the head would be entitled to refuse to disclose where the head includes in the document, Deletions

- (a) a statement of the fact that a deletion has been made;
- (b) a brief statement of the nature of the record which has been deleted; and
- (c) a reference to the provision of this Act on which the head relies.

34.—(1) A head shall make an annual report, in accordance with subsection (2), to the Commissioner. Annual
report
of head

(2) A report made under subsection (1) shall specify, Contents
of report

- (a) the number of requests under this Act for access to records made to the institution;
- (b) the number of refusals by the head to disclose a record, the provisions of this Act under which disclosure was refused and the number of occasions on which each provision was invoked;
- (c) for each provision of this Act in respect of which an appeal of a decision of a head has been commenced, the number of appeals commenced;
- (d) the number of uses or purposes for which personal information is disclosed where the use or purpose is not included in the statements of uses and purposes set forth under clauses 45 (d) and (e);

- (e) the amount of fees collected by the institution under section 57; and
- (f) any other information indicating an effort by the institution to put into practice the purposes of this Act.

Documents
made
available

35.—(1) The responsible minister shall cause the materials described in sections 31, 32 and 45 to be made generally available for inspection and copying by the public and shall cause them to be made available to the public in the reading room, library or office designated by each institution for this purpose.

Idem

(2) Every head shall cause the materials described in sections 33 and 34 to be made available to the public in the reading room, library or office designated by each institution for this purpose.

Information
from heads

36. Every head shall provide to the responsible minister at the responsible minister's request, the information needed by the responsible minister to prepare the materials described in sections 31, 32 and 45.

PART III

PROTECTION OF INDIVIDUAL PRIVACY

COLLECTION AND RETENTION OF PERSONAL INFORMATION

Application
of Part

37. This Part does not apply to personal information that is maintained for the purpose of creating a record that is available to the general public.

Definition

38.—(1) In this section and in section 39, "personal information" includes information that is not recorded and that is otherwise defined as "personal information" under this Act.

Collection of
personal
information

(2) No person shall collect personal information on behalf of an institution unless the collection is expressly authorized by statute, used for the purposes of law enforcement or necessary to the proper administration of a lawfully authorized activity.

Manner of
collection

39.—(1) Personal information shall only be collected by an institution directly from the individual to whom the information relates unless,

- (a) the individual authorizes another manner of collection;
- (b) the personal information may be disclosed to the institution concerned under section 42;
- (c) the Commissioner has authorized the manner of collection under clause 59 (c);
- (d) the information is in a report from a reporting agency in accordance with the *Consumer Reporting Act*; R.S.O. 1980, c. 89
- (e) the information is collected for the purpose of determining suitability for an honour or award to recognize outstanding achievement or distinguished service;
- (f) the information is collected for the purpose of the conduct of a proceeding or a possible proceeding before a court or judicial or quasi-judicial tribunal;
- (g) the information is collected for the purpose of law enforcement; or
- (h) another manner of collection is authorized by or under a statute.

(2) Where personal information is collected on behalf of an institution, the head shall, unless notice is waived by the responsible minister, inform the individual to whom the information relates of, Notice to individual

- (a) the legal authority for the collection;
- (b) the principal purpose or purposes for which the personal information is intended to be used; and
- (c) the title, business address and business telephone number of a public official who can answer the individual's questions about the collection.

(3) Subsection (2) does not apply where the head may refuse to disclose the personal information under subsection 14 (1) or (2) (law enforcement). Exception

40.—(1) Personal information that has been used by an institution shall be retained after use by the institution for the period prescribed by regulation in order to ensure that the Retention of personal information

individual to whom it relates has a reasonable opportunity to obtain access to the personal information.

Standard
of accuracy

(2) The head of an institution shall take reasonable steps to ensure that personal information on the records of the institution is not used unless it is accurate and up to date.

Exception

(3) Subsection (2) does not apply to personal information collected for law enforcement purposes,

- (a) where the recipient works for an institution involved in law enforcement; or
- (b) where the head of the institution informs the recipient of the information that it may not be reliable.

Disposal of
personal
information

(4) A head shall dispose of personal information under the control of the institution in accordance with the regulations and in accordance with any directives or guidelines issued by the responsible minister.

USE AND DISCLOSURE OF PERSONAL INFORMATION

Use of
personal
information

41. An institution shall not use personal information in its custody or under its control except,

- (a) where the person to whom the information relates has identified that information in particular and consented to its use;
- (b) for the purpose for which it was obtained or compiled or for a consistent purpose; or
- (c) for a purpose for which the information may be disclosed to the institution under section 42.

Where
disclosure
permitted

42. An institution shall not disclose personal information in its custody or under its control except,

- (a) in accordance with Part II;
- (b) where the person to whom the information relates has identified that information in particular and consented to its disclosure;
- (c) for the purpose for which it was obtained or compiled or for a consistent purpose;
- (d) where disclosure is made to an officer or employee of the institution who needs the record in the per-

formance of his or her duties and where disclosure is necessary and proper in the discharge of the institution's functions;

- (e) for the purpose of complying with an Act of the Legislature or an Act of Parliament or a treaty, agreement or arrangement thereunder;
- (f) where disclosure is by a law enforcement institution,
 - (i) to a law enforcement agency in a foreign country under an arrangement, a written agreement or treaty or legislative authority, or
 - (ii) to another law enforcement agency in Canada;
- (g) where disclosure is to an institution or a law enforcement agency in Canada to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (h) in compelling circumstances affecting the health or safety of an individual if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;
- (i) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
- (j) to a member of the Legislative Assembly who has been authorized by a constituent to whom the information relates to make an inquiry on the constituent's behalf or, where the constituent is incapacitated, has been authorized by the next of kin or legal representative of the constituent;
- (k) to a member of the bargaining agent who has been authorized by an employee to whom the information relates to make an inquiry on the employee's behalf or, where the employee is incapacitated, has been authorized by the next-of-kin or legal representative of the employee;
- (l) to the Provincial Auditor;
- (m) to the Ombudsman;

- (n) to the responsible minister;
- (o) to the Information and Privacy Commissioner;
- (p) to the Government of Canada in order to facilitate the auditing of shared cost programs;
- (q) to the Archives of Ontario; and
- (r) to Statistics Canada.

Consistent
purpose

43. Where personal information has been collected directly from the individual to whom the information relates, the purpose of a use or disclosure of that information is a consistent purpose under clauses 41 (b) and 42 (c) only if the individual might reasonably have expected such a use or disclosure.

PERSONAL INFORMATION BANKS

Personal
information
banks

44. A head shall cause to be included in a personal information bank all personal information under the control of the institution that is organized or intended to be retrieved by the individual's name or by an identifying number, symbol or other particular assigned to the individual.

Personal
information
bank index

45. The responsible minister shall publish at least once each year an index of all personal information banks setting forth, in respect of each personal information bank,

- (a) its name and location;
- (b) the legal authority for its establishment;
- (c) the types of personal information maintained in it;
- (d) the principal uses of the personal information and the typical categories of users to whom disclosures from the system are made;
- (e) any other uses and purposes for which personal information in the personal information bank is used or disclosed on a regular basis;
- (f) the categories of individuals for whom records are maintained in the system;
- (g) the policies and practices applicable to the system with respect to storage, retrievability, access con-

trols, retention and disposal of personal information maintained in the system; and

- (h) the title, business address and business telephone number of the official responsible for the operation of the personal information bank.

46.—(1) A head shall retain a record of any use by the institution of personal information contained in a personal information bank and of any use or purpose for which the information is disclosed where the use or purpose is not included in the statements of uses and purposes set forth under clauses 45 (d) and (e) and shall attach or link the record of use to the personal information.

Retention of record of use

(2) A record retained under subsection (1) forms part of the personal information to which it is attached or linked.

Record of use part of personal information

(3) Where the personal information in a personal information bank under the control of an institution is used or disclosed for a use consistent with the purpose for which the information was obtained or compiled by the institution but the use is not one of the uses included under clauses 45 (d) and (e), the head shall,

Notice and publication

- (a) forthwith notify the responsible minister of the use or disclosure; and

- (b) ensure that the use is included in the index.

RIGHT OF INDIVIDUAL TO WHOM PERSONAL INFORMATION RELATES TO ACCESS AND CORRECTION

47.—(1) Every individual has a right of access to,

Right of access to personal information

- (a) any personal information about the individual contained in a personal information bank in the custody or under the control of an institution; and
- (b) any other personal information about the individual in the custody or under the control of an institution with respect to which the individual is able to provide sufficiently specific information to render it reasonably retrievable by the institution.

(2) Every individual who is given access under subsection (1) to personal information is entitled to,

Right of correction

- (a) request correction of the personal information where the individual believes there is an error or omission therein;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
- (c) require that any person or body to whom the personal information has been disclosed within the year before the time a correction is requested or a statement of disagreement is required be notified of the correction or statement of disagreement.

Request

48.—(1) An individual seeking access to personal information about the individual shall make a request therefor in writing to the institution that the individual believes has custody or control of the personal information and shall identify the personal information bank or otherwise identify the location of the personal information.

Access procedures

(2) Subsections 10 (2) and 24 (2) and sections 25, 26, 27, 28 and 29 apply with necessary modifications to a request made under subsection (1).

Manner of access

(3) Subject to the regulations, where an individual is to be given access to personal information requested under subsection (1), the head shall,

- (a) permit the individual to examine the personal information; or
- (b) provide the individual with a copy thereof.

Comprehensible form

(4) Where access to personal information is to be given, the head shall ensure that the personal information is provided to the individual in a comprehensible form and in a manner which indicates the general terms and conditions under which the personal information is stored and used.

Exemptions

49. A head may refuse to disclose to the individual to whom the information relates personal information,

- (a) where section 12, 13, 14, 15, 16, 17, 18, 19, 20 or 22 would apply to the disclosure of that personal information;
- (b) where the disclosure would constitute an unjustified invasion of another individual's personal privacy;

- (c) that is evaluative or opinion material compiled solely for the purpose of determining suitability, eligibility or qualifications for employment or for the awarding of government contracts and other benefits where the disclosure would reveal the identity of a source who furnished information to the institution in circumstances where it may reasonably have been assumed that the identity of the source would be held in confidence;
- (d) that is medical information where the disclosure could reasonably be expected to prejudice the mental or physical health of the individual;
- (e) that is a correctional record where the disclosure could reasonably be expected to reveal information supplied in confidence; or
- (f) that is a research or statistical record.

PART IV

APPEAL

50.—(1) A person who has made a request for,

Right to
appeal

- (a) access to a record under subsection 24 (1);
- (b) access to personal information under subsection 48 (1); or
- (c) correction of personal information under subsection 47 (2),

or a person who is given notice of a request under subsection 28 (1) may appeal any decision of a head under this Act to the Commissioner.

(2) An appeal under subsection (1) shall be made within thirty days after the notice was given of the decision appealed from by filing with the Commissioner written notice of appeal.

Time for
application

(3) Upon receiving a notice of appeal, the Commissioner shall inform the head of the institution concerned and any other affected person of the notice of appeal.

Notice of
application
for appeal

(4) The *Ombudsman Act* does not apply in respect of a complaint for which an appeal is provided under this Act or to the Commissioner or the Commissioner's delegate acting under this Act.

Application
of
R.S.O. 1980,
c. 325

Mediator to
try to effect
settlement

51. The Commissioner may authorize a mediator to investigate the circumstances of any appeal and to try to effect a settlement of the matter under appeal.

Inquiry

52.—(1) Where a settlement is not effected under section 51, the Commissioner shall conduct an inquiry to review the head's decision.

R.S.O. 1980,
c. 484
not to apply

(2) The *Statutory Powers Procedure Act* does not apply to an inquiry under subsection (1).

Inquiry in
private

(3) The inquiry may be conducted in private.

Powers of
Commissioner

(4) In an inquiry, the Commissioner may require to be produced to the Commissioner and may examine any record that is in the custody or under the control of an institution, despite Parts II and III of this Act or any other Act or privilege, and may enter and inspect any premises occupied by an institution for the purposes of the investigation.

Record not
retained by
Commissioner

(5) The Commissioner shall not retain any information obtained from a record under subsection (4).

Examination
on site

(6) Despite subsection (4), a head may require that the examination of a record by the Commissioner be of the original at its site.

Notice of
entry

(7) Before entering any premises under subsection (4), the Commissioner shall notify the head of the institution occupying the premises of his or her purpose.

Examination
under oath

(8) The Commissioner may summon and examine on oath any person who, in the Commissioner's opinion, may have information relating to the inquiry, and for that purpose the Commissioner may administer an oath.

Evidence
privileged

(9) Anything said or any information supplied or any document or thing produced by a person in the course of an inquiry by the Commissioner under this Act is privileged in the same manner as if the inquiry were a proceeding in a court.

Protection

(10) Except on the trial of a person for perjury in respect of his or her sworn testimony, no statement made or answer given by that or any other person in the course of an inquiry by the Commissioner is admissible in evidence in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Commissioner shall be given against any person.

(11) A person giving a statement or answer in the course of an inquiry before the Commissioner shall be informed by the Commissioner of his or her right to object to answer any question under section 5 of the *Canada Evidence Act*.

Idem under
R.S.C. 1970,
c. E-10

(12) No person is liable to prosecution for an offence against any Act, other than this Act, by reason of his or her compliance with a requirement of the Commissioner under this section.

Prosecution

(13) The person who requested access to the record, the head of the institution concerned and any affected party shall be given an opportunity to make representations to the Commissioner, but no person is entitled to be present during, to have access to or to comment on representations made to the Commissioner by any other person.

Represent-
ations

(14) The person who requested access to the record, the head of the institution concerned and any affected party may be represented by counsel or an agent.

Right to
counsel

53. Where a head refuses access to a record or a part of a record, the burden of proof that the record or the part falls within one of the specified exemptions in this Act lies upon the head.

Burden
of proof

54.—(1) After all of the evidence for an inquiry has been received, the Commissioner shall make an order disposing of the issues raised by the appeal.

Order

(2) Where the Commissioner upholds a decision of a head that the head may refuse to disclose a record or a part of a record, the Commissioner shall not order the head to disclose the record or part.

Idem

(3) The Commissioner's order may contain any terms and conditions the Commissioner considers appropriate.

Terms and
conditions

(4) The Commissioner shall give the appellant and the persons who received notice of the appeal under subsection 50 (3) written notice of the order.

Notice of
order

55.—(1) The Commissioner or any person acting on behalf of or under the direction of the Commissioner shall not disclose any information that comes to their knowledge in the performance of their powers, duties and functions under this Act.

Confiden-
tiality

(2) The Commissioner or any person acting on behalf or under the direction of the Commissioner is not compellable to

Not
compellable
witness

give evidence in a court or in a proceeding of a judicial nature concerning anything coming to their knowledge in the exercise or performance of a power, duty or function under this Act.

Proceedings
privileged

(3) No proceeding lies against the Commissioner or against any person acting on behalf or under the direction of the Commissioner for anything done, reported or said in good faith in the course of the exercise or performance or purported exercise or performance of a power, duty or function under this Act.

Delegation
by
Commis-
sioner

56.—(1) The Commissioner may in writing delegate a power or duty granted to or vested in the Commissioner to an officer or officers employed by the Commissioner, except the power to delegate under this section, subject to such limitations, restrictions, conditions and requirements as the Commissioner may set out in the delegation.

Exception re
records under
s. 12 or 14

(2) The Commissioner shall not delegate to a person other than the Assistant Information Commissioner or the Assistant Privacy Commissioner his or her power to require a record referred to in section 12 or 14 to be produced and examined.

PART V

GENERAL

Costs

57.—(1) Where no provision is made for a charge or fee under any other Act, a head may require the person who makes a request for access to a record or for correction of a record to pay,

- (a) a search charge for every hour of manual search required in excess of two hours to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record; and
- (d) shipping costs.

Estimate
of costs

(2) The head of an institution shall, before giving access to a record, give the person requesting access a reasonable estimate of any amount that will be required to be paid under this Act that is over \$25.

Waiver of
payment

(3) A head may waive the payment of all or any part of an amount required to be paid under this Act where, in the

head's opinion, it is fair and equitable to do so after considering,

- (a) the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required by subsection (1);
- (b) whether the payment will cause a financial hardship for the person requesting the record;
- (c) whether dissemination of the record will benefit public health or safety;
- (d) whether the record contains personal information relating to the person who requested it; and
- (e) any other matter prescribed in the regulations.

(4) A person who is required to pay a fee under subsection (1) may ask the Commissioner to review the head's decision to charge a fee or the amount of the fee. Review

(5) The costs provided in this section shall be paid and distributed in the manner prescribed in the regulations. Disposition of payments

58.—(1) The Commissioner shall make an annual report, in accordance with subsection (2), to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. Annual report of Commissioner

(2) A report made under subsection (1) shall provide a comprehensive review of the effectiveness of this Act in providing access to information and protection of personal privacy including, Contents of report

- (a) a summary of the nature and ultimate resolutions of appeals carried out under subsection 50 (1);
- (b) an assessment of the extent to which institutions are complying with this Act; and
- (c) the Commissioner's recommendations with respect to the practices of particular institutions and with respect to proposed revisions to this Act and regulations.

59. The Commissioner may, Powers and duties of Commissioner

- (a) offer comment on the privacy protection implications of proposed legislative schemes or government programs;
- (b) after hearing the head, order an institution to,
 - (i) cease a collection practice, and
 - (ii) destroy collections of personal information,that contravene this Act;
- (c) in appropriate circumstances, authorize the collection of personal information otherwise than directly from the individual;
- (d) engage in or commission research into matters affecting the carrying out of the purposes of this Act;
- (e) conduct public education programs and provide information concerning this Act and the Commissioner's role and activities; and
- (f) receive representations from the public concerning the operation of this Act.

Regulations

60. The Lieutenant Governor in Council may make regulations,

- (a) respecting the procedures for access to original records under section 30;
- (b) respecting the procedures for access to personal information under subsection 48 (3);
- (c) prescribing the circumstances under which records capable of being produced from machine readable records are not included in the definition of "record" for the purposes of this Act;
- (d) setting standards for and requiring administrative, technical and physical safeguards to ensure the security and confidentiality of records and personal information under the control of institutions;
- (e) setting standards for the accuracy and completeness of personal information that is under the control of an institution;

- (f) prescribing time periods for the purposes of subsection 40 (1);
- (g) prescribing the payment and allocation of fees received under section 57;
- (h) prescribing matters to be considered in determining whether to waive all or part of the costs required under section 57;
- (i) designating any agency, board, commission, corporation or other body as an institution and designating a head for each such institution;
- (j) prescribing forms and providing for their use;
- (k) respecting any matter the Lieutenant Governor in Council considers necessary to carry out effectively the purposes of this Act.

61.—(1) No person shall,

Offences

- (a) wilfully disclose personal information in contravention of this Act;
- (b) wilfully maintain a personal information bank that contravenes this Act;
- (c) make a request under this Act for access to or correction of personal information under false pretenses;
- (d) wilfully obstruct the Commissioner in the performance of his or her functions under this Act;
- (e) wilfully make a false statement to, mislead or attempt to mislead the Commissioner in the performance of his or her functions under this Act; or
- (f) wilfully fail to comply with an order of the Commissioner.

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine not exceeding \$5,000. Penalty

(3) A prosecution shall not be commenced under clause (1) (d), (e) or (f) without the consent of the Attorney General. Consent of
Attorney
General

Delegation
of head's
powers

62.—(1) A head may in writing delegate a power or duty granted or vested in the head to an officer or officers of the institution subject to such limitations, restrictions, conditions and requirements as the head may set out in the delegation.

Protection
from civil
proceeding

(2) No action or other proceeding lies against a head, or against a person acting on behalf or under the direction of the head, for damages resulting from the disclosure or non-disclosure in good faith of a record or any part of a record under this Act, or from the failure to give a notice required under this Act if reasonable care is taken to give the required notice.

Vicarious
liability
of Crown
preserved
R.S.O. 1980,
c. 393

(3) Subsection (2) does not by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act* relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (2) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (2) had not been enacted.

Vicarious
liability of
certain
institutions
preserved

(4) Subsection (2) does not relieve an institution of liability in respect of a tort committed by a person mentioned in subsection (2) to which it would otherwise be subject and the institution is liable for any such tort in a like manner as if subsection (2) had not been enacted.

Oral
requests

63.—(1) Where a head may give access to information under this Act, nothing in this Act prevents the head from giving access to that information in response to an oral request or in the absence of a request.

Pre-existing
access
preserved

(2) This Act shall not be applied to preclude access to information that is not personal information and to which access by the public was available by custom or practice immediately before this Act comes into force.

Crown
privilege

64.—(1) This Act does not impose any limitation on the information otherwise available by law to a party to litigation.

Powers of
courts and
tribunals

(2) This Act does not affect the power of a court or a tribunal to compel a witness to testify or compel the production of a document.

Application
of Act

65.—(1) This Act does not apply to records placed in the Archives of Ontario by or on behalf of a person or organization other than an institution.

Idem

(2) This Act does not apply to a record in respect of a patient in a psychiatric facility as defined by clause 1 (p) of the *Mental Health Act*, where the record,

- (a) is a clinical record as defined by clause 29 (1) (a) of the *Mental Health Act*; or

R.S.O. 1980,
c. 262

- (b) contains information in respect of the history, assessment, diagnosis, observation, examination, care or treatment of the patient.

(3) This Act does not apply to notes prepared by or for a person presiding in a proceeding in a court of Ontario if those notes are prepared for that person's personal use in connection with the proceeding.

Idem

66. Any right or power conferred on an individual by this Act may be exercised,

Exercise of
rights of
deceased,
etc., persons

- (a) where the individual is deceased, by the individual's personal representative if exercise of the right or power relates to the administration of the individual's estate;
- (b) where a committee has been appointed for the individual or where the Public Trustee has become the individual's committee, by the committee; and
- (c) where the individual is less than sixteen years of age, by a person who has lawful custody of the individual.

67.—(1) The Standing Committee on the Legislative Assembly shall undertake a comprehensive review of all confidentiality provisions contained in Acts in existence on the day this Act comes into force and shall make recommendations to the Legislative Assembly regarding,

Review of
other Acts

- (a) the repeal of unnecessary or inconsistent provisions; and
- (b) the amendment of provisions that are inconsistent with this Act.

(2) This Act prevails over a confidentiality provision in any other Act unless the other Act specifically provides otherwise.

Other Acts

(3) Subsection (2) shall not have effect until two years after this section comes into force.

Idem

68. The Standing Committee on the Legislative Assembly shall, within three years after proclamation of this Act, undertake a comprehensive review of this Act and shall, within one

Review of
this Act

year after beginning that review, make recommendations to the Legislative Assembly regarding amendments to this Act.

69. Subsection 10 (1) of the *Public Service Act*, being chapter 418 of the Revised Statutes of Ontario, 1980, is amended by inserting after “legally” in the third line of the form of oath contained therein “authorized or”.

Application

70. This Act applies to any record in the custody or under the control of an institution regardless of whether it was recorded before or after this Act comes into force.

Crown bound

71. This Act binds the Crown.

Commence-
ment

72. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor, or on the 1st day of January, 1988, whichever comes first.

Short title

73. The short title of this Act is the *Freedom of Information and Protection of Privacy Act, 1987*.

Bill 35

An Act to provide Political Rights for Public Servants

Mr. Mackenzie

1st Reading May 6th, 1987

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

The Bill is designed to give public servants the same political rights that all other citizens enjoy in Ontario. It covers civil servants, Crown employees, employees of community colleges, and people working for agencies such as Ontario Hydro, the Workers' Compensation Board and the Ontario Northland Transportation Commission, but excludes Deputy Ministers, officers of similar status in Crown agencies and other senior policy-making officials.

The deleted sections of the *Public Service Act* make it illegal for a public servant to canvass on behalf of a candidate in an election, to solicit funds for a political party or a candidate at any time, or to speak or to write a letter to the editor on "any matter that forms part of the platform of a provincial or federal political party". A public servant may only become a candidate for election after the writs are issued and is effectively barred from being a candidate if a nomination is held before that date. The candidate must take leave of absence without pay for a period of four to five weeks.

The Bill provides that public servants will be able to write, speak, contribute, solicit funds, work, join, hold office, and vote on behalf of, in, for, or to a political party or candidate in a federal or provincial election and protects public servants from punitive action by their superiors or from being forced to carry out partisan duties as a condition of their employment.

The deleted section of the *Crown Employees Collective Bargaining Act* contains the sections which are re-enacted in the Bill and also prohibits an employee organization from receiving money from public employees who are its members for activities carried on by, or on behalf of a political party, from paying out money to, or on behalf of, the political party, or from otherwise supporting a political party. The penalty for these activities is loss of bargaining rights. The Bill will give an employee organization the rights enjoyed by other trade unions, prevents it from compelling an employee to engage in political activity and provides for a wider range of penalties.

Bill 35

1987

An Act to provide Political Rights for Public Servants

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“agency” means any board, agency or commission of the Crown in right of Ontario;

“public servant” means a person appointed in the service of the Crown by the Lieutenant Governor in Council, by the Civil Service Commission or by a Minister, or a person employed in the service of the Crown or any agency of the Crown, but does not include any Deputy Minister or senior employee of the Crown or an agency with management or policy responsibilities;

“Tribunal” means the Ontario Public Service Labour Relations Tribunal as defined in section 1 of the *Crown Employees Collective Bargaining Act*.

R.S.O. 1980,
c. 108

2.—(1) Every public servant shall be entitled to exercise the following political rights,

Political
rights

- (a) the right to vote;
- (b) the right to actively support a political party or a candidate for provincial or federal office;
- (c) the right to contribute to a political party at any time;
- (d) the right to solicit funds for a candidate or for a political party;
- (e) the right to be a member of a political party and to hold office in such party; and

- (f) the right to express views on matters that form part of the platform of a provincial or federal political party.

Idem

(2) The rights provided in subsection (1) are subject to the condition that,

- (a) the employee does not engage in political activities during working hours;
- (b) the employee does not associate his or her position in the service of the Crown with any political activity;
- (c) the employee does not speak in public or express views in writing for distribution to the public on any matter with which he or she is directly engaged in employment with the Crown;
- (d) the employee respects the oath of office and secrecy, as provided under section 10 of the *Public Service Act*.

R.S.O. 1980,
c. 418

Partisan
work by
public
servants

3. No public servant shall be required by his or her employer to engage in work or activity of a partisan nature for a candidate or a political party either during or outside working hours and, notwithstanding the provisions of any other Act, refusal to perform such activities shall be a justifiable defence against any dismissal, transfer or other disciplinary action.

Leave of
absence

4. A public servant who proposes to become a candidate in a provincial or federal election shall inform his or her Minister or the chief officer of his or her agency, and,

- (a) may seek leave of absence without pay at any time the public servant is duly nominated by his or her party as its candidate; and
- (b) shall take leave of absence commencing on the day on which the writ for the election is issued or on the day on which he or she is nominated by his or her party, whichever date comes later; and
- (c) shall be granted leave with pay commencing on the day provided by statute for the nomination of candidates and ending on polling day,

and every such application shall be granted.

5. Where a public servant who is a candidate in a provincial or federal election is elected, the public servant shall forthwith resign his or her position as a public servant. Resignation

6. Where a public servant who has resigned under section 5, Reappointment

(a) ceases to be an elected political representative within five years of the resignation; and

(b) applies for reappointment to his or her former position or to another position in the service of the Crown for which the public servant is qualified, within three months of ceasing to be an elected political representative,

he or she shall be reappointed to the position upon its next becoming vacant.

7. Where a public servant has been granted leave of absence under section 4 and was not elected, or resigned a position under section 5 and was reappointed under section 6, the period of the leave of absence or resignation shall be computed in determining the length of his or her service for any purpose, and the service shall be deemed to be continuous for all purposes. Period of leave of absence

8. Every public servant who knowingly fails to comply with the requirements of this Act may be disciplined under the Act or regulation governing his or her employer. Disciplinary action

9.—(1) In this section, “employee organization” means an organization of employees formed for the purpose of regulating relations between the Crown in right of Ontario and public servants under this Act. Interpretation

(2) No employee organization shall discriminate against any employee because of age, sex, race, national origin, colour or religion. Prohibitions

(3) Where a public servant or the Crown in right of Ontario considers that an employee organization is in violation of subsection (2), a complaint may be lodged with the Tribunal, which shall conduct a public hearing to consider the matter and which may, Tribunal

(a) dismiss the complaint; or

(b) withdraw bargaining rights from the employee organization involved; or

- (c) levy a fine; or
- (d) take such other disciplinary action as it considers appropriate.

10. Sections 12, 13, 14, 15 and 16 of the *Public Service Act*, being chapter 418 of the Revised Statutes of Ontario, 1980, are repealed.

11. Clause 1 (1) (g) of the *Crown Employees Collective Bargaining Act*, being chapter 108 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

12. This Act comes into force on the day it receives Royal Assent.

Short title

13. The short title of this Act is the *Public Servants' Political Rights Act, 1987*.

Bill 36

An Act to amend the Employment Standards Act

Mr. Mackenzie



1st Reading May 6th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill adds three holidays to the definition of "public holiday". They are Easter Monday, the first Monday in August and Boxing Day.

Bill 36**1987****An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (1) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (1) “public holiday” means New Year’s Day, Good Friday, Easter Monday, Victoria Day, Dominion Day, the first Monday in August, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Employment Standards Amendment Act, 1987*. Short title

Bill 37

An Act to provide for the Employment of Disabled Persons

Mr. Mackenzie



1st Reading May 6th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide employment opportunities for disabled persons. The Bill requires that employers hire disabled persons to constitute at least 3 per cent of the employer's work force. The Bill permits the Minister to vary this percentage requirement in cases where the Minister considers another quota to be more suitable. In addition, the Minister may exempt an employer or class of employers from the operation of the statute. The Bill establishes a register of employable disabled persons to be maintained by the Ministry for the purpose of facilitating efforts by employers to meet the quota established by this Bill.

Bill 37

1987

An Act to provide for the Employment of Disabled Persons

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“disabled person” means any person suffering from a serious and prolonged physical disability;

“Minister” means the Minister of Labour;

“Ministry” means the Ministry of Labour;

“register” means the register of disabled persons established under section 4.

2.—(1) Every employer shall ensure that at any point in time the number of disabled persons who are employees of the employer is at least 3 per cent of the total number of employees of the employer.

Employment
of disabled
persons

(2) Notwithstanding subsection (1), the Minister may by order establish a quota for an employer or class of employers that is greater or less than the quota established under subsection (1) where the Minister is of the opinion that the quota established under subsection (1) is not suitable to that employer or class of employers.

Minister
may set
quota

3.—(1) No employer shall hire any person other than a disabled person if the number of disabled persons employed by the employer is less than the employer’s quota established under section 2.

Prohibition

(2) Subsection (1) does not apply to an employer who hires a person,

Exception

- (a) as a result of an agreement to reinstate the person entered into before the day on which this Act comes into force;
- (b) in accordance with an order or permit issued by the Minister under section 5.

Register

4.—(1) The Ministry shall establish and maintain a register of disabled persons for the purpose of facilitating the hiring by employers of disabled persons and the register shall record the name, address, qualifications, skills and the nature of the disability of each person registered therein.

Disabled person entitled to be registered

(2) Upon application, a person is entitled to be registered by the Ministry as a disabled person for the purposes of this Act if,

- (a) the person suffers from a physical disability that harms the person's prospects in obtaining employment; and
- (b) the person is capable of performing work in one or more work situations without causing danger to other employees.

Exemption order

5. Upon application, the Minister may by order,

- (a) exempt an employer or class of employers from the operation of this Act;
- (b) permit an employer to hire one or more persons who are not disabled persons for purposes set forth in the order.

Offence

6.—(1) Every employer who contravenes this Act is guilty of an offence and on summary conviction is liable,

- (a) if an individual, to a fine of not more than \$1,000; or
- (b) if a corporation, to a fine of not more than \$10,000.

Opportunity to comply

(2) No prosecution against an employer shall be instituted under this Act unless the employer is notified of the intent to bring a prosecution and afforded a reasonable opportunity to show or achieve compliance with this Act.

Regulations

7. The Lieutenant Governor in Council may make regulations,

- (a) prescribing additional types of information to be recorded in respect of each disabled person registered in the register;
- (b) governing the types of information to be supplied to the Ministry by each disabled person registered in the register;
- (c) governing records to be kept and reports to be provided by each employer concerning the disabled persons employed by the employer.

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

9. The short title of this Act is the *Disabled Persons Employment Act, 1987*. Short title

Bill 38

An Act to amend the Pension Benefits Act

Mr. Mackenzie

1st Reading May 6th, 1987
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The new section prevents an employer from taking money out of a pension plan or discontinuing payments into the plan where there is a surplus of money in the plan.

Bill 38

1987

An Act to amend the Pension Benefits Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Pension Benefits Act*, being chapter 373 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

23a.—(1) The assets and earnings of a pension plan shall be deemed to be held in trust for the members of the pension plan and no part of those assets or earnings shall be paid to the benefit of the employer either during the term of the pension plan or upon its termination or winding up.

Assets of
plan to
benefit
members
only

(2) An employer is not relieved of the obligation to pay money into a pension plan by reason only that the assets and earnings of the pension plan exceed its liabilities.

Contributions
to continue,
notwith-
standing
surplus

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Pension Benefits Amendment Act, 1987*.

Short title

Bill 39

**An Act to establish the
Ministry of
Financial Institutions**

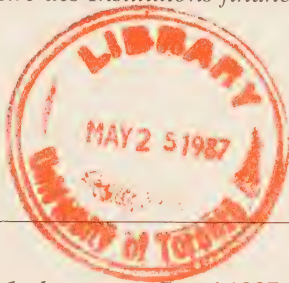
The Hon. M. Kwinter
Minister of Financial Institutions

1st Reading May 7th, 1987
2nd Reading
3rd Reading
Royal Assent

Projet de loi 39

**Loi portant création du
ministère des
Institutions financières**

L'honorable M. Kwinter
ministre des Institutions financières



1^{re} lecture 7 mai 1987
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill establishes the Ministry of Financial Institutions.

-

NOTE EXPLICATIVE

Le projet de loi porte création du ministère des Institutions financières.

Bill 39**1987****An Act to establish the
Ministry of Financial Institutions**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“sous-
ministre”

“Deputy Minister” means the Deputy Minister of Financial Institutions;

“ministre”

“Minister” means the Minister of Financial Institutions;

“ministère”

“Ministry” means the Ministry of Financial Institutions.

Ministry
established

2. There shall be a ministry of the public service to be known as the Ministry of Financial Institutions.

Minister to
have charge

3. The Minister shall preside over and have charge of the Ministry and has power to act for and on behalf of the Ministry.

Functions of
Minister

4.—(1) It is the function of the Minister,

- (a) to advise the Government respecting financial institutions and services in Ontario;
- (b) to develop policies to increase the domestic and international competitiveness of Ontario in the financial services sector;
- (c) to develop policies and programs to improve protection for the consumer of financial services;
- (d) to appoint task forces and advisory committees and to conduct studies respecting financial institutions and services;

Projet de loi 39

1987

Loi portant création du
ministère des Institutions financières

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

- 1

Les définitions qui suivent s'appliquent à la présente loi.

Définitions
- «ministère»

Le ministère des Institutions financières.

«Ministry»
- «ministre»

Le ministre des Institutions financières.

«Minister»
- «sous-ministre»

Le sous-ministre des Institutions financières.

«Deputy Minister»
- 2

Est créé un ministère de la fonction publique portant le nom de ministère des Institutions financières.

Création du ministère
- 3

Le ministre dirige le ministère et en a la responsabilité. Il a le pouvoir d'agir pour le compte du ministère et en son nom.

Responsabilité du ministre
- 4

(1) Les fonctions du ministre sont les suivantes :

Fonctions du ministre
- a)

conseiller le gouvernement en ce qui a trait aux institutions financières et aux services financiers en Ontario;
- b)

élaborer des politiques visant à accroître la compétitivité de l'Ontario dans le secteur des services financiers, au Canada et à l'étranger;
- c)

élaborer des politiques et des programmes visant à mieux protéger les consommateurs de services financiers;
- d)

constituer des groupes de travail et des comités consultatifs et effectuer des études portant sur les institutions financières et les services financiers;

- (e) to promote investor confidence in financial institutions in Ontario;
- (f) to develop systems for monitoring the financial stability of financial institutions;
- (g) to assist in the rehabilitation of financial institutions when it is in the public interest to do so;
- (h) to collect and disseminate information on financial institutions and services in Ontario; and
- (i) to promote high standards of business and management for financial institutions and others who provide financial services in Ontario.

Idem

(2) For the purpose of carrying out his or her functions under this Act, the Minister may,

- (a) make grants and loans out of moneys appropriated by the Legislature;
- (b) provide funding for task forces, advisory committees and studies; and
- (c) enter into agreements with any government, agency or person.

Adminis-
tration of
Acts

5.—(1) The Minister is responsible for the administration of this Act, the Acts set out in the Schedule and the Acts that are assigned to the Minister by the Legislature or by the Lieutenant Governor in Council.

Amendments
to Schedule

(2) The Lieutenant Governor in Council may by order amend the Schedule.

Annual
report

(3) After the end of each fiscal year, the Minister shall submit to the Lieutenant Governor in Council an annual report upon the affairs of the Ministry and shall then lay the report before the Assembly if it is in session or, if not, at the next session.

Deputy
Minister

6.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Financial Institutions who shall be the deputy head of the Ministry.

Staff
R.S.O. 1980,
c. 418

(2) Subject to the *Public Service Act*, there may be appointed such other officers and employees as are considered necessary for the proper conduct of the business of the Ministry.

- e) favoriser la confiance des investisseurs dans les institutions financières de l'Ontario;
- f) élaborer des systèmes de contrôle de la stabilité financière des institutions financières;
- g) aider au redressement de la situation des institutions financières quand cela est dans l'intérêt du public;
- h) rassembler et diffuser des renseignements sur les institutions financières et les services financiers en Ontario;
- i) favoriser l'élaboration et le respect, par les institutions financières et autres fournisseurs de services financiers en Ontario, de normes élevées dans leurs affaires et leur gestion.

(2) Dans l'exercice de ses fonctions en vertu de la présente loi, le ministre peut :

Idem

- a) accorder des subventions et consentir des prêts en prélevant les sommes affectées à cette fin par la législature;
- b) pourvoir au financement de groupes de travail, de comités consultatifs et des études qui sont faites;
- c) conclure des ententes avec un gouvernement, une agence ou une personne.

5 (1) Le ministre est chargé de l'application de la présente loi, des lois qui figurent à l'annexe et des lois qui lui sont confiées par la législature ou par le lieutenant-gouverneur en conseil.

Application des lois

(2) Le lieutenant-gouverneur en conseil peut modifier l'annexe par décret.

Modification de l'annexe

(3) Au terme de chaque exercice, le ministre présente au lieutenant-gouverneur en conseil un rapport annuel sur les affaires du ministère. Le ministre le dépose ensuite devant l'Assemblée si elle siège, sinon à la session suivante.

Rapport annuel

6 (1) Le lieutenant-gouverneur en conseil nomme un sous-ministre des Institutions financières qui exerce les fonctions d'administrateur général du ministère.

Sous-ministre

(2) Sous réserve de la *Loi sur la fonction publique*, d'autres fonctionnaires et employés peuvent être nommés selon ce qui est jugé nécessaire afin d'assurer le bon fonctionnement du ministère.

Personnel
L.R.O. 1980,
chap. 418

Delegation
of powers
and duties

7.—(1) Where, under this or any other Act, a power is granted to or vested in or a duty is imposed upon the Minister, the Minister may delegate in writing that power or the obligation to perform that duty to the Deputy Minister, to an officer or employee of the Ministry or to any other public servant, subject to the conditions set out in the delegation.

Idem
R.S.O. 1980,
c. 274

(2) A delegation made under the *Ministry of Consumer and Commercial Relations Act* in relation to an Act set out in the Schedule shall be deemed to have been made by the Minister.

Deeds and
contracts
R.S.O. 1980,
c. 147

(3) Notwithstanding section 6 of the *Executive Council Act*, a deed or contract signed by a person empowered to do so under a delegation made under subsection (1) has the same effect as if signed by the Minister.

Facsimile
signature

(4) The Minister may authorize the use of a facsimile of his or her signature and the Deputy Minister may authorize the use of a facsimile of his or her signature on any document except an affidavit or a statutory declaration.

Idem

(5) A facsimile of the signature of the Minister or the Deputy Minister affixed to a document under an authorization made under subsection (4) shall be deemed to be the signature of the Minister or the Deputy Minister, as the case may be.

Protection
from
personal
liability

8.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister, any officer or employee of the Ministry, anybody acting under the authority of the Minister or the Deputy Minister, or anybody appointed under this Act, any Act set out in the Schedule or any other Act assigned to the Minister for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Crown
Liability
R.S.O. 1980,
c. 393

(2) Notwithstanding subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

Delegation
of power to
hold hearing
R.S.O. 1980,
c. 249

9.—(1) Where, under any Act, the Minister, the Superintendent of Insurance, the Registrar appointed under the *Loan and Trust Corporations Act* or the Director of Credit Unions has the power or duty to hold a hearing before making a decision, such official may delegate the power and duty to hold a

7 (1) Le ministre peut déléguer au sous-ministre, à un fonctionnaire, à un employé du ministère ou à un autre fonctionnaire tout pouvoir ou obligation que lui confère ou impose la présente loi ou une autre loi. La délégation est écrite et peut être assortie de conditions.

Délégation
de pouvoirs
et
d'obligations

(2) La délégation faite aux termes de la *Loi sur le ministère de la Consommation et du Commerce* relativement à une loi qui figure à l'annexe, est réputée faite par le ministre.

Idem
L.R.O. 1980,
chap. 274

(3) Malgré l'article 6 de la *Loi sur le Conseil des ministres*, un acte ou un contrat signé par une personne habilitée à ce faire en vertu d'une délégation faite aux termes du paragraphe (1) a le même effet que s'il est signé par le ministre.

Actes et
contrats
L.R.O. 1980,
chap. 147

(4) Le ministre et le sous-ministre peuvent chacun autoriser l'utilisation d'un fac-similé de leur signature sur tout document, à l'exclusion d'un affidavit ou d'une déclaration solennelle.

Fac-similé
de signature

(5) Un fac-similé de la signature du ministre ou du sous-ministre apposé à un document en vertu d'une autorisation accordée aux termes du paragraphe (4), est réputé la signature du ministre ou du sous-ministre, selon le cas.

Idem

8 (1) Sont irrecevables les actions ou autres instances en dommages-intérêts intentées contre le sous-ministre, un fonctionnaire ou un employé du ministère, quiconque agit sous l'autorité du ministre ou du sous-ministre ou quiconque nommé en vertu de la présente loi, d'une loi qui figure à l'annexe ou d'une autre loi qui est confiée au ministre, pour un acte accompli de bonne foi dans l'exercice ou l'exercice prévu de leurs fonctions ou pour une négligence ou un défaut imputés dans l'exercice de bonne foi de leurs fonctions.

Immunité

(2) Malgré les paragraphes 5 (2) et (4) de la *Loi sur les instances introduites contre la Couronne*, le paragraphe (1) ne dégage pas la Couronne de la responsabilité qu'elle serait autrement tenue d'assumer à l'égard d'un délit civil commis par une personne visée au paragraphe (1).

Responsabilité
de la
Couronne
L.R.O. 1980,
chap. 393

9 (1) Si, en vertu d'une loi, le ministre, le surintendant des assurances, le registrateur nommé aux termes de la *Loi sur les compagnies de prêt et de fiducie*, ou le directeur des caisses populaires a le pouvoir ou l'obligation de tenir une audience avant de prendre une décision, le ministre ou ce haut fonctionnaire peut déléguer ce pouvoir ou cette obligation à une ou plusieurs personnes qu'a nommées le lieutenant-gouverneur en conseil sur la recommandation du ministre.

Délégation
du pouvoir de
tenir une
audience
L.R.O. 1980,
chap. 249

hearing and make a decision to one or more persons appointed by the Lieutenant Governor in Council on the recommendation of the Minister.

Appointment
by
Lieutenant
Governor in
Council

(2) The Lieutenant Governor in Council, on the recommendation of the Minister, may by order appoint persons, including members of the public service, for any purpose mentioned in subsection (1), who shall hold office during pleasure.

Presiding
officer

(3) Where more than one person is delegated a power or duty under subsection (1), the official who delegated the power or duty shall designate one of them as presiding officer.

Remuner-
ation and
expenses

(4) Persons appointed under subsection (2), other than members of the public service, shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and the reasonable expenses incurred by them in the course of their duties under this Act.

Decisions

(5) Where more than one person is delegated a power or duty under subsection (1), the decision of the majority shall be deemed to be the decision of the official who delegated the power or duty, but, if there is no majority, the decision of the presiding officer governs.

Amendment
of
subs. (1)

(6) On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by striking out "Registrar appointed under the *Loan and Trust Corporations Act*" and inserting in lieu thereof "Superintendent or the Director appointed under the *Loan and Trust Corporations Act, 1987*".

1987, c. ...

Accounting
statement
respecting
grant or loan
R.S.O. 1980,
c. 405

10.—(1) The Minister may require a recipient of a grant or loan under this Act to submit to the Minister a statement prepared by a person licensed under the *Public Accountancy Act* that sets out the details of the disposition of the grant or loan by the recipient.

Idem

(2) Where the Minister requires a statement under subsection (1), the recipient shall arrange for the preparation of the statement forthwith and provide the statement as soon as practicable.

Guarantee
of loans

11.—(1) On the recommendation of the Treasurer of Ontario and Minister of Economics, the Lieutenant Governor in Council may, for any of the purposes of this Act, guarantee the payment of any loan or a part thereof, together with interest thereon, made to any person.

(2) Le lieutenant-gouverneur en conseil, sur la recommandation du ministre, peut, par décret, nommer des personnes, y compris des membres de la fonction publique, à l'une des fins prévues au paragraphe (1). Ces personnes exercent leurs fonctions à titre amovible.

Nomination
par le
lieutenant-
gouverneur
en conseil

(3) Si un pouvoir ou une obligation est délégué à plus d'une personne aux termes du paragraphe (1), le ministre ou le haut fonctionnaire qui a délégué le pouvoir ou l'obligation désigne une de ces personnes comme président.

Président

(4) Les personnes nommées aux termes du paragraphe (2), à l'exclusion des membres de la fonction publique, reçoivent la rémunération que peut fixer le lieutenant-gouverneur en conseil, et le paiement des frais normaux qu'elles ont engagés dans l'exercice de leurs fonctions aux termes de la présente loi.

Rémunération
et frais

(5) Si un pouvoir ou une obligation est délégué à plus d'une personne aux termes du paragraphe (1), la décision de la majorité est réputée la décision du ministre ou du haut fonctionnaire qui a délégué le pouvoir ou l'obligation. En cas de partage, le président a voix prépondérante.

Décisions

(6) À la date que le lieutenant-gouverneur fixe par proclamation, le paragraphe (1) est modifié par substitution aux mots «le registrateur nommé aux termes de la *Loi sur les compagnies de prêt et de fiducie*» des mots «le surintendant ou le directeur nommé aux termes de la *Loi de 1987 sur les compagnies de prêt et de fiducie*».

Modification
du
par. (1)

1987,
chap. ...

10 (1) Le ministre peut exiger du bénéficiaire d'une subvention accordée ou d'un prêt consenti en vertu de la présente loi qu'il lui présente un relevé établi par une personne agréée aux termes de la *Loi sur les experts-comptables* qui indique en détail la manière dont le bénéficiaire a fait usage des fonds provenant de la subvention ou du prêt.

Relevé
comptable
concernant
une subven-
tion ou un
prêt
L.R.O. 1980,
chap. 405

(2) Si le ministre exige le relevé visé au paragraphe (1), le bénéficiaire prend sans délai les dispositions nécessaires à l'établissement du relevé qu'il fournit dès que cela est possible.

Idem

11 (1) Sur la recommandation du trésorier de l'Ontario et ministre de l'Économie, le lieutenant-gouverneur en conseil peut, pour toute application de la présente loi, garantir le remboursement de la totalité ou d'une partie d'un prêt consenti à quiconque, ainsi que le paiement des intérêts qui s'y rapportent.

Prêts garantis

Form of
guarantee

(2) A guarantee under subsection (1) shall be in the form and on the terms approved by the Lieutenant Governor in Council and shall be signed by the Treasurer of Ontario or by such other officer or officers as the Lieutenant Governor in Council designates.

Province
liable for
payment

(3) The Province of Ontario is liable for the payment of the loan or part thereof and interest thereon according to the terms of the guarantee signed in accordance with subsection (2).

Payment of
interest

(4) Where a guarantee is given under subsection (1), the Lieutenant Governor in Council may authorize the payment by the Province of Ontario of the whole or any part of the interest on the loan for the whole or any part of the term of the guarantee.

Payment of
guarantee

(5) The moneys necessary to fulfill the requirements of any guarantee under this section shall be paid out of the Consolidated Revenue Fund.

Offence

12. No person shall, in respect of a grant or loan made under this Act,

- (a) make a false or misleading statement in an application or other document;
- (b) furnish any false or misleading information; or
- (c) expend or commit the whole or part of the grant or loan for a purpose other than the purpose for which it was given.

Appointment
of investi-
gators

13.—(1) The Minister may appoint employees of the Ministry as investigators to carry out investigations related to any grant, loan or guarantee made or given under this Act.

Powers on
investigation

(2) An investigator, in carrying out an investigation under subsection (1), may,

- (a) enter any place;
- (b) require any person to furnish information within a reasonable, specified time;
- (c) require any person to produce any document or thing in his or her possession or control;
- (d) on giving a receipt therefor, remove from a place documents produced in response to a request under clause (c) for the purpose of making copies thereof

(2) Le lieutenant-gouverneur en conseil approuve la forme de la garantie et les conditions de celle-ci. Cette garantie est signée par le trésorier de l'Ontario ou par le ou les fonctionnaires que le lieutenant-gouverneur en conseil désigne.

Forme de la
garantie

(3) La province de l'Ontario est responsable du remboursement de la totalité ou d'une partie du prêt, ainsi que du paiement des intérêts qui s'y rapportent, selon les conditions de la garantie signée conformément au paragraphe (2).

La province
est responsa-
ble du
paiement

(4) S'il a donné une garantie aux termes du paragraphe (1), le lieutenant-gouverneur en conseil peut autoriser le paiement, par la province de l'Ontario, de la totalité ou d'une partie des intérêts qui se rapportent au prêt pour l'ensemble ou une partie de la durée de la garantie.

Paiement des
intérêts

(5) Les fonds nécessaires pour honorer les obligations qui découlent d'une garantie donnée aux termes du présent article sont prélevés sur le Fonds du revenu consolidé.

Paiement du
montant
couvert par
la garantie

12 En ce qui concerne une subvention accordée ou un prêt consenti en vertu de la présente loi, nul ne doit :

Infraction

- a) faire une déclaration fausse ou trompeuse sur une demande ou un autre document;
- b) fournir des renseignements faux ou trompeurs;
- c) dépenser ou affecter la totalité ou une partie de la subvention ou du prêt à une fin autre que celle faisant l'objet de la somme accordée.

13 (1) Le ministre peut nommer, parmi les employés du ministère, des enquêteurs pour qu'ils effectuent des enquêtes portant sur une subvention accordée, un prêt consenti ou une garantie donnée en vertu de la présente loi.

Nomination
d'enquêteurs

(2) Dans le cadre de l'enquête visée au paragraphe (1), l'enquêteur peut :

Pouvoirs des
enquêteurs

- a) pénétrer dans un endroit quelconque;
- b) exiger de quiconque qu'il fournisse des renseignements dans un délai raisonnable précisé;
- c) exiger de quiconque qu'il produise tout document ou objet en sa possession ou sous son contrôle;
- d) après avoir donné un récépissé à cet effet, enlever de quelque endroit où ils se trouvent les documents produits à la suite de la demande formulée en vertu de l'alinéa c), aux fins d'en tirer des copies ou des

or extracts therefrom and shall promptly return them to the person who produced them; and

(e) examine any person under oath.

Idem

(3) For the purpose of an examination under clause (2) (e), an investigator may administer oaths and, on giving reasonable notice, may require persons to attend at the time and place specified in the notice.

Reasonable times

(4) The powers conferred by this section shall be exercised only at reasonable times.

Identification

(5) An investigator exercising a power under this section shall provide identification at the time of entry.

Entry into dwellings

(6) An investigator, in the exercise of a power under this section, shall not enter a place that is being used as a dwelling without the consent of the occupier except under the authority of an inspection order issued under this section.

Inspection order for search

(7) Where a justice of the peace is satisfied on evidence upon oath that there are in a place documents or things that there is reasonable ground to believe will afford evidence relevant to an investigation under this section, the justice of the peace may issue an inspection order authorizing the investigator named in the order to search the place for any such documents or things and to remove them for the purpose of making copies or extracts, and they shall be returned promptly to the place from which they were removed.

Inspection order for entry

(8) Where a justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe it is necessary that a place being used as a dwelling or to which entry has been denied be entered so that an investigator may carry out an investigation under this section, the justice of the peace may issue an inspection order authorizing such entry by the investigator named in the order.

Execution and expiry of order

(9) An inspection order issued under this section,

(a) shall specify the hours and days during which it may be executed; and

(b) shall name a date on which it expires, which date shall not be later than fifteen days after its issue.

extraits, après quoi les documents sont promptement retournés à la personne qui les a produits;

e) interroger quiconque sous serment.

(3) Dans le cadre de l'interrogatoire visé à l'alinéa (2) e), l'enquêteur peut faire prêter serment et peut, après avoir donné un avis suffisant, exiger des personnes qu'elles comparaissent à l'endroit et à l'heure précisés dans l'avis. Idem

(4) Les pouvoirs que confère le présent article ne sont exercés qu'à des heures raisonnables. Heures raisonnables

(5) Dans l'exercice d'un pouvoir que confère le présent article, l'enquêteur présente une pièce d'identité au moment de pénétrer dans un endroit. Pièce d'identité

(6) Dans l'exercice d'un pouvoir que confère le présent article, l'enquêteur ne doit pas pénétrer dans un endroit qui sert de logement sans la permission de l'occupant, sauf en vertu d'une ordonnance d'inspection rendue aux termes du présent article. Accès à un logement

(7) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il se trouve dans un endroit quelconque des documents ou des objets qu'on peut raisonnablement croire susceptibles de fournir des preuves pertinentes à l'enquête effectuée en vertu du présent article, peut rendre une ordonnance d'inspection. L'ordonnance autorise l'enquêteur qui y est nommé à perquisitionner à cet endroit en vue d'en enlever les pièces précitées pour en tirer des copies ou des extraits, après quoi ces pièces sont promptement retournées à cet endroit. Perquisition

(8) Le juge de paix qui est convaincu, sur la foi de témoignages recueillis sous serment, qu'il existe des motifs raisonnables de croire qu'il est nécessaire qu'un enquêteur, dans le cadre de l'enquête effectuée en vertu du présent article, pénètre dans un endroit qui sert de logement ou dont l'accès a été refusé, peut rendre une ordonnance d'inspection autorisant l'enquêteur qui y est nommé à pénétrer dans cet endroit. Ordonnance pour pénétrer dans un endroit

(9) L'ordonnance rendue aux termes du présent article : Exécution et caducité de l'ordonnance

a) précise les heures et les jours pendant lesquels elle peut être exécutée;

b) porte une date de caducité qui ne peut être postérieure à quinze jours de la date où elle a été rendue.

Ex parte
application

(10) A justice of the peace may receive and consider an application for an inspection order under this section without notice to and in the absence of the owner or the occupier of the premises.

Admissibility
of copies

(11) Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Obstruction
of
investigator

14.—(1) No person shall hinder or obstruct an investigator in the lawful performance of his or her duties or furnish an investigator with false information or refuse to attend an examination for which reasonable notice has been given, or refuse to furnish an investigator with information, documents or things required for the purposes of an investigation under section 13.

Obligation
to assist
investigator

(2) Every person shall furnish all necessary means in his or her power to facilitate any entry, inspection or inquiry by, or any production to, an investigator in the lawful performance of his or her duties.

Offence

15.—(1) Every person who contravenes subsection 10 (2) or section 12 or 14 and every director or officer of a corporation who concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Idem

(2) Notwithstanding subsection (1), where a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed on the corporation is \$100,000.

Restitution

(3) Where a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto.

Limitation
period

(4) No proceeding for an offence under this Act shall be commenced in any court more than two years after the facts upon which the proceedings are based first came to the knowledge of the Minister.

Repayment
of grant or
loan

(5) On a conviction for an offence under section 12, the amount of the grant or loan in respect of which the offence was committed, together with interest thereon, shall be deemed to be a debt due to the Crown and may be recovered by an action in a court of competent jurisdiction.

(10) Le juge de paix peut recevoir et examiner une requête d'ordonnance d'inspection présentée en vertu du présent article, sans préavis au propriétaire ou à l'occupant des locaux et en l'absence de ceux-ci.

Requête sans
préavis

(11) Les copies ou extraits qu'une personne a tirés des documents et des objets qui ont été enlevés d'un endroit aux termes de la présente loi, et que cette personne certifie être conformes aux originaux, sont admissibles en preuve dans la même mesure et ont la même valeur probante que les documents ou les objets dont ils sont tirés.

Admissibilité
des copies

14 (1) Nul ne doit entraver ni gêner un enquêteur dans l'exercice légitime de ses fonctions, lui fournir de faux renseignements, refuser de comparaître à un interrogatoire pour lequel un avis suffisant a été donné, ni refuser de lui fournir les renseignements, documents ou objets exigés aux fins de l'enquête visée à l'article 13.

Interdiction
d'entraver
l'enquêteur

(2) Toute personne met tous les moyens nécessaires dont elle dispose à la disposition de l'enquêteur dans l'exercice légitime de ses fonctions afin de l'aider à pénétrer dans un endroit quelconque, faciliter son inspection ou son enquête ou favoriser la production de documents.

Obligation
d'aider
l'enquêteur

15 (1) Quiconque contrevient au paragraphe 10 (2) ou à l'article 12 ou 14 et tout administrateur ou dirigeant d'une personne morale qui participe à cette contravention est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 25 000 \$.

Infraction

(2) Malgré le paragraphe (1), si une personne morale est reconnue coupable d'une infraction aux termes du paragraphe (1), l'amende maximale qui peut lui être imposée est de 100 000 \$.

Idem

(3) Le tribunal qui prononce la déclaration de culpabilité peut, en plus de toute autre peine, ordonner à la personne reconnue coupable de l'infraction aux termes de la présente loi de verser une indemnité ou de faire restitution en conséquence.

Restitution

(4) Est irrecevable la poursuite intentée relativement à une infraction à la présente loi plus de deux ans après que les faits sur lesquels elle se fonde ont été portés en premier lieu à la connaissance du ministre.

Prescription

(5) En cas de condamnation pour une infraction aux termes de l'article 12, le montant de la subvention ou du prêt à l'égard duquel l'infraction a été commise, ainsi que les intérêts qui s'y rapportent, sont réputés une dette payable à la

Rembourse-
ment d'un
prêt ou d'une
subvention

Seal **16.**—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry.

Idem (2) The seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction and, when so reproduced, has the same effect as if manually affixed.

References to Minister and Ministry **17.**—(1) Except where the context otherwise requires, in any Act listed in the Schedule or in any regulation, order in council, ministerial order or other document, act or thing made or done under any such Act, a reference to the Minister or Deputy Minister of Consumer and Commercial Relations shall be deemed to be a reference to the Minister or Deputy Minister of Financial Institutions, so long as the Minister of Financial Institutions administers such Act or provision, and a reference therein to the Ministry of Consumer and Commercial Relations shall be deemed to be a reference to the Ministry of Financial Institutions.

Saving
R.S.O. 1980,
c. 274 (2) Nothing in this Act invalidates any regulation, ministerial order, act or thing made or done under the *Ministry of Consumer and Commercial Relations Act* or under any other Act for which the Minister of Consumer and Commercial Relations was responsible before this Act received Royal Assent.

18. Subsection 142 (2) of the *Co-operative Corporations Act*, being chapter 91 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Information not to be disclosed (2) The Minister or any employee in the Ministry shall not disclose any information contained in a return made under subsection (1), except,

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or
- (b) to his or her counsel; or
- (c) with the consent of the co-operative to which the information relates; or
- (d) to a peace officer for law enforcement purposes; or

Couronne et peuvent être recouvrés au moyen d'une action intentée devant un tribunal compétent.

16 (1) Le lieutenant-gouverneur en conseil peut autoriser le ministère à posséder et utiliser un sceau. Sceau

(2) Le sceau peut être gravé, lithographié, imprimé ou reproduit par un autre moyen mécanique. Il a alors la même valeur que s'il était apposé manuellement. Idem

17 (1) Sauf si le contexte exige une interprétation contraire, dans une loi qui figure à l'annexe ou dans un règlement, un décret, un arrêté ministériel ou un autre document, acte ou chose pris ou fait en application de cette loi, une mention du ministre ou du sous-ministre de la Consommation et du Commerce est réputée une mention du ministre ou du sous-ministre des Institutions financières, tant que l'application de cette loi ou disposition relève du ministre des Institutions financières. De même, une mention du ministère de la Consommation et du Commerce est réputée une mention du ministère des Institutions financières. Mention du ministre et du ministère

(2) Aucune disposition de la présente loi n'a pour effet d'invalider un règlement, un arrêté ministériel, un acte ou une chose pris ou fait en application de la *Loi sur le ministère de la Consommation et du Commerce* ou en vertu d'une autre loi dont l'application relevait du ministre de la Consommation et du Commerce avant que la présente loi ne reçoive la sanction royale. Exception
L.R.O. 1980, chap. 274

18 Le paragraphe 142 (2) de la *Loi sur les coopératives*, qui constitue le chapitre 91 des *Lois refondues de l'Ontario de 1980*, est abrogé et remplacé par ce qui suit :

(2) The Minister or any employee in the Ministry shall not disclose any information contained in a return made under subsection (1), except, Information not to be disclosed

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or
- (b) to his or her counsel; or
- (c) with the consent of the co-operative to which the information relates; or
- (d) to a peace officer for law enforcement purposes; or

- (e) to a victim of conduct that he or she reasonably believes is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

19.—(1) Clause 6 (a) of the *Deposits Regulation Act*, being chapter 116 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister of Financial Institutions or the Minister of Consumer and Commercial Relations; or

(2) Section 6 of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clauses:

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that the person disclosing the information reasonably believes is unlawful under any Act administered by the Minister of Financial Institutions or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

20.—(1) Subsection 2 (1) of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by striking out “A Superintendent of Insurance shall be appointed” in the first line and inserting in lieu thereof “The Lieutenant Governor in Council shall appoint a Superintendent of Insurance”.

(2) Section 2 of the said Act is amended by adding thereto the following subsection:

- (1a) The Lieutenant Governor in Council may appoint one or more persons to be Deputy Superintendent of Insurance.

21.—(1) Clause 1 (e) of the *Ministry of Consumer and Commercial Relations Act*, being chapter 274 of the Revised Statutes

- (e) to a victim of conduct that he or she reasonably believes is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.*

19 (1) L'alinéa 6 (a) de la *Loi sur les dépositaires d'argent*, qui constitue le chapitre 116 des Lois refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister of Financial Institutions or the Minister of Consumer and Commercial Relations; or*

(2) L'article 6 de la loi est modifié par adjonction du mot «or» à la fin de l'alinéa (c) et par adjonction des alinéas suivants :

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that the person disclosing the information reasonably believes is unlawful under any Act administered by the Minister of Financial Institutions or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.*

20 (1) Le paragraphe 2 (1) de la *Loi sur les assurances*, qui constitue le chapitre 218 des Lois refondues de l'Ontario de 1980, est modifié par substitution, à «A Superintendent of Insurance shall be appointed» à la première ligne, de «The Lieutenant Governor in Council shall appoint a Superintendent of Insurance».

(2) L'article 2 de la loi est modifié par adjonction du paragraphe suivant :

- (1a) The Lieutenant Governor in Council may appoint one or more persons to be Deputy Superintendent of Insurance.*

Deputy
Superinten-
dent

21 (1) L'alinéa 1 (e) de la *Loi sur le ministère de la Consommation et du Commerce*, qui constitue le chapitre 274 des Lois

of Ontario, 1980, is repealed and the following substituted therefor:

- (e) "Registrar" means the Registrar under an Act administered by the Minister.

(2) Paragraphs 3, 4, 5, 6, 7, 8, 9, 11 and 13 of section 4 of the said Act are repealed.

22.—(1) Clause 1 (1) (b) of the *Mortgage Brokers Act*, being chapter 295 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 3 (2) of the said Act is amended by striking out "under the supervision of the Director" in the third line.

(3) Sections 24, 26, 30, 31 and 32 of the said Act are amended by striking out "Director" wherever that word occurs and inserting in lieu thereof in each instance "Registrar".

(4) Clause 25 (1) (a) of the said Act is repealed and the following substituted therefor:

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or

.

(5) Subsection 25 (1) of the said Act is amended by adding "or" at the end of clause (c) and by adding thereto the following clauses:

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that the person disclosing the information reasonably believes is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

(6) Subsection 27 (3) of the said Act is amended by striking out "with the approval of the Director" in the second line.

refondues de l'Ontario de 1980, est abrogé et remplacé par ce qui suit :

- (e) "Registrar" means the Registrar under an Act administered by the Minister.*

(2) Les dispositions 3, 4, 5, 6, 7, 8, 9, 11 et 13 de l'article 4 de la loi sont abrogées.

22 (1) L'alinéa 1 (1) (b) de la *Loi sur les courtiers en hypothèques*, qui constitue le chapitre 295 des Lois refondues de l'Ontario de 1980, est abrogé.

(2) Le paragraphe 3 (2) de la loi est modifié par suppression des mots «under the supervision of the Director» à la troisième ligne.

(3) Les articles 24, 26, 30, 31 et 32 de la loi sont modifiés par substitution, à «Director» partout où ce mot apparaît, du mot «Registrar».

(4) L'alinéa 25 (1) (a) de la loi est abrogé et remplacé par ce qui suit :

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or*

.

(5) Le paragraphe 25 (1) de la loi est modifié par adjonction du mot «or» à la fin de l'alinéa (c) et par adjonction des alinéas suivants :

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that the person disclosing the information reasonably believes is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.*

(6) Le paragraphe 27 (3) de la loi est modifié par suppression des mots «with the approval of the Director» à la deuxième ligne.

23.—(1) Clause 26 (1) (a) of the *Registered Insurance Brokers Act*, being chapter 444 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or

.

(2) Subsection 26 (1) of the said Act is amended by adding “or” at the end of clause (c) and by adding thereto the following clauses:

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that the person disclosing the information reasonably believes is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.

Commence-
ment

24. This Act shall be deemed to have come into force on the 1st day of April, 1986.

Short title

25. The short title of this Act is the *Ministry of Financial Institutions Act, 1987*.

23 (1) L'alinéa 26 (1) (a) de la *Loi sur l'inscription des courtiers d'assurances*, qui constitue le chapitre 444 des *Lois refondues de l'Ontario de 1980*, est abrogé et remplacé par ce qui suit :

- (a) as may be required in connection with the administration or enforcement of this Act or any Act administered by the Minister or the Minister of Consumer and Commercial Relations; or*

.

(2) Le paragraphe 26 (1) de la loi est modifié par adjonction du mot «or» à la fin de l'alinéa (c) et par adjonction des alinéas suivants :

- (d) to a peace officer for law enforcement purposes; or
- (e) to a victim of conduct that the person disclosing the information reasonably believes is unlawful under any Act administered by the Minister or the Minister of Consumer and Commercial Relations, or to a person likely to become such a victim if the disclosure is not made, where the disclosure is reasonably necessary for the protection of the victim or potential victim.*

24 La présente loi est réputée être entrée en vigueur le 1^{er} avril 1986. Entrée en vigueur

25 Le titre abrégé de la présente loi est *Loi de 1987 sur le ministère des Institutions financières*. Titre abrégé

*Les lois modifiées n'ayant été promulguées qu'en anglais, il n'existe pas de texte français exigeant une modification législative.

Because the amended statutes were enacted only in English, there is no French text to amend.

SCHEDULE

Central Trust Company Act, 1983

Commodity Futures Act

Compulsory Automobile Insurance Act

Co-operative Corporations Act

Credit Unions and Caisses Populaires Act

Crown Trust Company Act, 1983

Deposits Regulation Act

Guarantee Companies Securities Act

Insurance Act

Investment Contracts Act

Loan and Trust Corporations Act

Marine Insurance Act

Mortgage Brokers Act

Motor Vehicle Accident Claims Act

Ontario Credit Union League Limited Act, 1972

Ontario Deposit Insurance Corporation Act

Pension Benefits Act

Prepaid Hospital and Medical Services Act

Registered Insurance Brokers Act

Securities Act

Toronto Futures Exchange Act, 1983

Toronto Stock Exchange Act, 1982

ANNEXE

Loi sur l'assurance-automobile obligatoire

Loi sur l'assurance maritime

Loi sur les assurances

Loi de 1982 sur la Bourse de Toronto

Loi sur les caisses populaires et les credit unions

Loi de 1983 sur la compagnie Central Trust

Loi de 1983 sur la compagnie Crown Trust

Loi sur les compagnies de cautionnement

Loi sur les compagnies de prêt et de fiducie

Loi sur les contrats de placement

Loi sur les coopératives

Loi sur les courtiers en hypothèques

Loi sur les dépositaires d'argent

Loi sur l'indemnisation des victimes d'accidents d'automobiles

Loi sur l'inscription des courtiers d'assurances

Loi de 1983 sur les marchés à terme de la Bourse de Toronto

Loi de 1972 sur le Ontario Credit Union League Limited

Loi sur les régimes de retraite

Loi sur les services hospitaliers et médicaux prépayés

Loi sur la Société ontarienne d'assurance-dépôt

Loi sur les valeurs mobilières

Loi sur la vente à terme de marchandises

Bill 40

An Act to recognize and provide for the Needs of Victims of Crime

Mr. O'Connor



1st Reading May 7th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill provides that a victim of crime has the right to be treated with courtesy and respect for privacy by law enforcement personnel and the media, the right to be provided with information relating to the prosecution of the crime of which he or she was the victim and the right to consult with the Crown prosecutor concerning submissions on bail and the sentencing of the accused. It also provides for the prompt return of the victim's property at no charge to the victim.

A complaint that a right under the Act has been infringed may be made to the Criminal Injuries Compensation Board.

The employer of a victim who testifies in a proceeding relating to the crime is prohibited from dismissing or disciplining the victim on that basis and may be required to reinstate the victim in employment.

The Bill also provides that proceeds paid to a person convicted of a crime for the sale of his or her recollections concerning the crime may, by order of a judge, be forfeited.

Bill 40

1987

An Act to recognize and provide for the Needs of Victims of Crime

Whereas it is in the interests of society as a whole to provide justice for victims of crime by recognizing the hardships to individuals that may result from the commission of a crime and by addressing the needs and concerns of victims of crime;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means the Criminal Injuries Compensation Board under the *Compensation for Victims of Crime Act*;

R.S.O. 1980,
c. 82

“crime” means a criminal offence for which a person may be prosecuted by indictment;

“spouse” means a spouse as defined for the purposes of Part III of the *Family Law Act, 1986*;

1986, c. 4

“victim” means a person directly harmed by a crime.

2.—(1) If a victim is killed as a result of a crime, his or her spouse, guardian, mother, father, sister, brother, child or other dependant is entitled to exercise the rights under this Act as if he or she were the victim.

Rights of
spouse,
dependants,
etc.

(2) If a victim is injured as a result of a crime, subsection (1) applies with necessary modifications to the extent that the victim is unable to exercise the rights under this Act.

Idem

VICTIMS' RIGHTS

3. A victim has the right to be treated with courtesy and with respect for his or her privacy by law enforcement personnel, Crown prosecutors, corrections officers and the media.

Treatment
of victims

Information
for victims

4.—(1) A victim has the right to be informed by law enforcement personnel at the earliest practical opportunity,

- (a) of the provisions of this Act;
- (b) of the provisions of the *Compensation for Victims of Crime Act*;
- (c) where appropriate, of services for victims available in the community.

R.S.O. 1980,
c. 82

Idem

(2) A victim has the right to receive from the Crown prosecutor information concerning,

- (a) the nature, timing and progress of the prosecution of the crime of which he or she was the victim;
- (b) the role of the victim and of other persons involved in the prosecution of the crime;
- (c) court procedures related to the prosecution of the crime; and
- (d) the disposition of the case against the accused, including the sentence imposed, if any.

Idem

(3) A victim has the right to receive from corrections officers information relating to the granting of parole to the person convicted of the crime of which he or she was the victim.

Idem

(4) A victim has the right to receive from law enforcement personnel information relating to crime prevention.

Representations re
bail and
sentencing

5. A victim has the right to make representations to the Crown prosecutor before trial concerning the Crown prosecutor's submissions on,

- (a) judicial interim release of the accused; and
- (b) the appropriate sentence to be imposed in the event of a conviction.

Return of
property

6.—(1) Where stolen property is recovered on behalf of a victim, the victim has the right to have the property returned to him or her as soon as possible.

No charge
for recovery
or storage

(2) Subject to subsection (3), no charge shall be made for the recovery or storage of property returned to a victim.

(3) A charge may be made for storage of a victim's property if the victim does not reclaim it within a reasonable time. Exception

7. No person shall infringe or do, directly or indirectly, anything that infringes a right under this Act. Infringement prohibited

ENFORCEMENT

8.—(1) A person who believes his or her rights under this Act have been infringed may file a complaint with the Board. Enforcement

(2) The chairman of the Board shall refer the complaint to one member of the Board for a hearing. Complaint referred to single member

(3) Subsections 9 (1) and (2) and section 15 of the *Compensation for Victims of Crime Act* apply with necessary modifications to a complaint under this section. Application of R.S.O. 1980, c. 82, ss. 9 (1, 2) and 15

(4) The member shall hold a hearing and make an order under section 9. Hearing

9. Where the member of the Board, after a hearing, finds that a right of the complainant under this Act has been infringed, the member may by order direct the party complained against to do anything that, in the opinion of the member, the party ought to do to achieve compliance with this Act, both in respect of the complaint and in respect of future practices. Order

10. A decision of a member of the Board is final except that an appeal lies to the Divisional Court from the decision on any question of law. Appeal

OFFENCES

11. Every person who contravenes section 7 or an order made under section 9 is guilty of an offence and on conviction is liable to a fine of not more than \$25,000. Offence

12.—(1) No employer shall dismiss, discipline or suspend an employee or threaten to do so because the employee testifies or is required to testify in a proceeding that relates to a crime of which the employee was the victim. No discipline, dismissal, etc., by employer

(2) An employer who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000. Penalty

Order

(3) Where an employer is convicted of an offence under subsection (1), the provincial judge making the conviction shall, in addition to the penalty, order what action the employer shall take or what the employer shall refrain from doing and the order may include the reinstatement in employment of the employee with compensation for loss of wages and other benefits to be assessed against the employer.

Offender
not to profit
from crime

13.—(1) A person convicted of a crime shall not derive any profit from the sale of his or her recollections concerning the crime.

Forfeiture
of proceeds

(2) The Attorney General may apply to a judge of the Supreme or District Court for an order that the person convicted of a crime forfeit all or any part of the proceeds received or to be received by that person, or his or her representatives or assigns, from contracts relating to the depiction of the crime or the person's recollections concerning the crime in any medium.

Disposition
of proceeds

(3) Proceeds recovered under an order of forfeiture under subsection (2) shall be paid into the Consolidated Revenue Fund.

Commence-
ment

14. This Act comes into force on the day it receives Royal Assent.

Short title

15. The short title of this Act is the *Victims of Crime Bill of Rights, 1987*.

Bill 41

An Act to encourage the Rehabilitation of Water Delivery Systems in Ontario

Mrs. Marland



1st Reading May 7th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to ensure a clean water supply by promoting and assisting in the rehabilitation of water delivery systems. The Bill would require the Government of Ontario,

- (a) to investigate the question of the need for rehabilitation of water delivery systems used in municipal water systems throughout the Province, considering the desirability of having a clean water supply as well as environmental and health concerns;
- (b) to assist municipalities in determining how most efficiently to effect appropriate rehabilitation of those water delivery systems;
- (c) to assist municipalities in determining the cost of that rehabilitation; and
- (d) to consider giving municipalities the financial assistance necessary to carry out that rehabilitation and assisting them in finding further assistance.

Bill 41**1987**

An Act to encourage the Rehabilitation of Water Delivery Systems in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Minister” means the minister of the Crown who is designated by order of the Lieutenant Governor in Council to administer this Act;

“municipality” includes a metropolitan, regional and district municipality and the County of Oxford.

2. The purpose of this Act is to ensure a clean water supply by promoting and assisting in the rehabilitation of water delivery systems.

Purpose of Act

3. The Lieutenant Governor in Council by order shall designate a minister of the Crown to administer this Act.

Administration of Act

4. The Minister shall cause a thorough investigation to be undertaken to determine the age and quality of water delivery systems throughout the Province, and shall cause periodic studies to be carried out to detect deterioration and anticipated deterioration in those systems and the effects of that deterioration and anticipated deterioration on the provision of a clean water supply, on the health of the public and on the environment.

Investigation

5. Where the Minister determines that as a result of the quality of a water delivery system, a municipality is not delivering a clean water supply or the quality of the water supply is inadequate, considering environmental and health concerns, the Minister shall offer the municipality whatever assistance it requires in developing a plan to determine how most efficiently to effect appropriate rehabilitation of that water delivery system, how much it would cost to effect that rehabilita-

Assistance in developing plan

tion and what appropriate sources of funding are available for that cost.

Financial
assistance

6. Where the Minister considers it appropriate to do so, the Minister may provide grants or loans to municipalities to assist them in rehabilitating water delivery systems.

Report

7. The Minister annually shall file a report with the Assembly concerning the action that has been taken under this Act, including,

- (a) the status of water delivery systems throughout the Province and the anticipated cost of rehabilitating those that need rehabilitation;
- (b) what grants and loans have been provided to aid in that rehabilitation; and
- (c) what further rehabilitation needs to be done to carry out the purpose of this Act and what the Minister's plan is with regard to that further rehabilitation.

Commence-
ment

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. The short title of this Act is the *Clean Water Act, 1987*.

Bill 43

An Act to amend the Employment Standards Act

Mr. Mackenzie



1st Reading May 7th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to protect employees where persons contract out work or services so the employees can maintain the seniority, wages, benefits and other rights they had before the work or services were contracted out.

Bill 43**1987****An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 (1) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 55, section 1, is further amended by inserting after “Parts” in the first line “II-A”.

2. The said Act is amended by adding thereto the following Part:

PART II-A

CONTRACTING OUT

15a. In this Part,

Definitions

“contract” means a contract entered into between a contractor and an employer under which the employer is to provide for the contractor, directly or indirectly, work or services to be performed by employees of the employer or by employees of some other employer;

“contractor” means a person who contracts with an employer for the provision, directly or indirectly, of work or services by employees of the employer or by employees of some other employer;

“work or services” means work or services performed in or at an establishment, but does not include,

- (a) the construction, alternation, maintenance or demolition of buildings, structures, roads, sewers, pipelines, mains or tunnels or other works where the employee works at the site thereof, and

- (b) except in the food industry, the making, preparing, altering, ornamenting, finishing, packing, packaging, inspecting, testing or assembling the parts of an article, commodity or raw material for sale.

Employer to
hire former
employees

15b.—(1) Where an employer enters into a contract with a contractor to provide work or services for the contractor and the work or services were being performed in whole or in part by employees of,

- (a) the contractor; or
- (b) a person who has a direct or indirect contractual relationship with the contractor,

immediately before the contract is entered into, the employer shall offer to hire those employees to perform the work or services.

Conditions
of
employment

(2) Where an employee accepts employment offered under subsection (1), the employer shall recognize the service and seniority that the employee has earned performing the work or services, regardless of what employer the employee was working for and the employer, on the basis of that seniority, shall,

- (a) offer employment for the performance of the work or service to be provided under the contract;
- (b) effect promotions and transfers for the work or services; and
- (c) determine the employee's rights to vacation, sick leave and maternity leave.

Idem

(3) Where an employee accepts employment offered under subsection (1), the employer shall pay to the employee wages and provide to the employee benefits, rights and privileges at least equal to those that the employee was receiving for performing the work or services immediately before the employer entered into the contract with the contractor.

Deemed
provisions of
contract

15c. A contract shall be deemed to contain undertaking by the employer to comply with section 15b.

Application
of Part

15d.—(1) Sections 15a, 15b and 15c apply to the assignee or transferee of the rights of the employer of a part or all of the contract as if the assignee or transferee were the employer.

(2) Where a contract between an employer and a contractor is terminated and the contractor undertakes to perform the contracted work or services, sections 15a and 15b apply to the contractor as if the contractor were the employer. Idem

(3) Where a contract between an employer and a contractor is terminated and the contractor contracts with a new employer to perform the contracted work or services, sections 15a, 15b and 15c apply to the new employer as if the new employer were the first named employer. Idem

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Employment Standards Amendment Act, 1987*. Short title

20N

Government
Publications

Bill 44

Private Member's Bill

3RD SESSION, 33RD LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 44

An Act to amend the Labour Relations Act

Mr. Mackenzie



1st Reading May 7th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The section being added to the Act deals with various situations where there is an attempt to replace union employees or prospective union employees with non-union employees or to replace an employer who is a party to a contract or a prospective contract.

Bill 44

1987

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

CONTRACTING OUT

63a.—(1) This section does not apply to,

Application

- (a) employees working for an employer as defined in clause 117 (c); or
- (b) employees engaged in making, preparing (other than the preparation of food for sale), altering, repairing, ornamenting, printing, finishing, packing, packaging, inspecting, testing or assembling for purposes of sale, any article, commodity or raw material.

(2) Where a contracting party contracts with an employer, for the employer to provide, to, at, or out of an establishment, work or services essentially similar to that or those previously performed by employees covered by a collective agreement, the employer is bound by the collective agreement as if the employer were a party thereto.

Collective
agreement
binding

(3) Where a contracting party contracts with an employer, for the employer to provide, to, at, or out of an establishment essentially similar to that or those previously performed by employees covered by an application for certification or for termination of bargaining rights, the employer for the purposes of any such application, shall be deemed to be the employer named in the application.

Certification
or
termination
of bargaining
rights
application

(4) Where a contracting party contracts with an employer, for the employer to provide, to, at, or out of an establish-

Union's right
to give notice
continued

ment, work or services essentially similar to that or those previously performed by employees in a bargaining unit for which a trade union has been certified or has given or is entitled to give notice under section 14 or 53, the trade union continues to be the bargaining agent for the employees performing the work or services and is entitled to give to the employer a written notice of its desire to bargain with a view to making a collective agreement or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or to the making of a new agreement and the notice has the same effect as a notice under section 14 or 53.

Where
employer
contract
replaced

(5) Where a contracting party terminates a contract with an employer under which the employer provides, to, at, or out of an establishment, work or services essentially similar to that or those performed, before the termination of the contract, by employees covered by a collective agreement and the work or services are subsequently performed under the direction of another employer, the subsequent employer is bound by the collective agreement as if that employer were a party thereto.

Idem

(6) Where a contracting party terminates a contract with an employer under which the employer provides, to, at, or out of an establishment, work or services essentially similar to that or those performed, before the termination of the contract, by employees covered by an application for certification or for termination of bargaining rights and the work or services are subsequently performed under the direction of another employer, the subsequent employer, for the purposes of any such application, shall be deemed to be the employer named in the application.

Idem

(7) Where a contracting party terminates a contract with an employer under which the employer provides, to, at, or out of an establishment, work or services essentially similar to that or those performed, before the termination of the contract, by employees in a bargaining unit for which a trade union has been certified or has given or is entitled to give notice under section 14 or 53, and the work or services are subsequently performed under the direction of another employer, the union continues to be the bargaining agent for the employees performing the work or services and the trade union is entitled to give to the employer written notice of its desire to bargain with the view to making a collective agreement or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or to the making of a new agreement and the notice has the same effect as a notice under section 14 or 53.

(8) The Board shall, upon application by a trade union, treat a contracting party as one employer for the purposes of this Act and grant such relief by way of declaration or otherwise as it considers appropriate.

Contracting
party treated
as one
employer

(9) In this section, “contracting party” means a corporation, individual, firm, syndicate, association or any combination thereof.

Interpretation

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Labour Relations Amendment Act, 1987*.

Short title

Bill 45

An Act to amend the Workers' Compensation Act

Mr. McClellan



1st Reading May 11th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to amend the *Workers' Compensation Act* by repealing section 86n. Section 86n empowers the board of directors of the Board to direct the Appeals Tribunal to reconsider a decision, to hold hearings to review a decision of the Appeals Tribunal, and to stay or vacate the execution of a decision of the Appeals Tribunal.

Bill 45**1987****An Act to amend the Workers' Compensation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 86n of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is repealed.

2. The short title of this Act is the *Workers' Compensation Amendment Act, 1987*. Short title

Bill 46

An Act to amend the Ontario Institute for Studies in Education Act

Mr. Pouliot



1st Reading May 28th, 1986

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to give the Ontario Institute for Studies in Education the power to grant degrees, including honorary degrees, diplomas and certificates in education.

Bill 46**1987**

**An Act to amend the
Ontario Institute for Studies in Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of the *Ontario Institute for Studies in Education Act*, being chapter 341 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(ea) provide for the granting of and grant degrees, including honorary degrees, diplomas and certificates in education.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Ontario Institute for Studies in Education Amendment Act, 1987*. Short title

Bill 47

An Act to amend the Operating Engineers Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations



1st Reading May 12th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Act currently provides for provisional certificates of qualification to be issued to applicants who qualified for similar certificates in other provinces.

The concept of provisional certificates is being removed but provision is being made for regular certificates to be issued to applicants who qualified in other provinces.

Bill 47

1987

An Act to amend the Operating Engineers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 2 of subsection 15 (1) of the *Operating Engineers Act*, being chapter 363 of the Revised Statutes of Ontario, 1980, is repealed.

2. Section 23 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 42, section 12, is repealed and the following substituted therefor:

23.—(1) The chief officer shall, upon payment of the fee prescribed by the regulations, issue a certificate of qualification to every person who applies therefor and holds a subsisting certificate issued by another province or territory of Canada that qualifies the person to perform the work or duties of an operating engineer or operator in such province or territory. Certificate of qualifications

(2) The certificate of qualification issued under subsection (1) shall be of a class that authorizes the holder of the certificate to perform the work and duties that, in the opinion of the chief officer, the holder is qualified to perform in Ontario having regard to the qualifications prescribed by the regulations for applicants for certificates of qualification. Idem

3.—(1) Clause 37 (b) of the said Act is amended by striking out “and provisional certificates of qualification” in the second and third lines.

(2) Clause 37 (f) of the said Act is repealed and the following substituted therefor:

- (f) providing for the issue, renewal and reinstatement of certificates of qualification.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Operating Engineers Amendment Act, 1987*.

Bill 48

An Act to amend the Travel Industry Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations



1st Reading May 12th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. Definitions of travel agent and wholesaler are being modified and made a little broader in their scope. The reference to a travel salesman is removed. This deletion is complementary to section 2 of the Bill.

SECTION 2. The section is recast to clarify that agents and wholesalers are respectively registered as such. The requirement for a salesman to be registered is removed.

SECTION 3. The amendment is complementary to section 4 of the Bill.

SECTION 4. The provisions repealed refer to travel salesmen who will not be registered under the Act.

SECTION 5. Section 21 of the Act is the "confidentiality provision". The added clauses enlarge on the exceptions to the confidentiality rule.

SECTION 6. The new provision permits the Director to apply for a court order appointing a receiver and manager of a business where it appears in the public interest to do so.

SECTION 7. Section 22 now permits the Director to freeze assets or land of a business. The new provision would allow for a court order directing the disposition of frozen assets.

SECTION 8. This clarifies the authority to make regulations establishing and regulating a compensation fund.

Bill 48

1987

An Act to amend the Travel Industry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (e), (f) and (h) of the *Travel Industry Act*, being chapter 509 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

(e) “travel agent” means a person who sells, to consumers, travel services provided by another person;

.

(h) “travel wholesaler” means a person who acquires rights to a travel service for the purpose of resale to a travel agent or who carries on the business of dealing with travel agents or travel wholesalers for the sale of travel services provided by another person.

2. Section 3 of the said Act is repealed and the following substituted therefor:

3.—(1) No person shall act or hold himself out as being available to act as a travel agent unless he is registered as a travel agent by the Registrar. Acting as
travel agent

(2) No person shall act or hold himself out as being available to act as a travel wholesaler unless he is registered as a travel wholesaler by the Registrar. Acting as
travel
wholesaler

(3) No travel agent shall conduct business from a place at which the public is invited to deal unless it is named as an office in the registration. Offices of
travel agents

(4) Where more than one office is named in the registration, one shall be designated as the main office and the remainder as branch offices. Idem

3. Subsections 4 (3) and (4) of the said Act are repealed and the following substituted therefor:

Integrity

1976-77,
c. 52 (Can.)

(4) Without restricting the generality of clause (1) (b) and subclause (1) (c) (iii), a conviction within the previous five years for theft or for an offence under paragraph 95 (h), (i), (j) or (m) of the *Immigration Act, 1976* (Canada) is sufficient grounds for the purpose of those provisions.

4. Sections 12 and 14 of the said Act are repealed and the following substituted therefor:

Notice of
material
changes

12. Every travel agent and travel wholesaler shall, within five days after the event, notify the Registrar in writing of,

- (a) any change in its address for service; and
- (b) any change in the officers in the case of a corporation or of the members in the case of a partnership.

5. Subsection 21 (1) of the said Act is amended by adding thereto the following clauses:

- (aa) to a ministry, department or agency of a government engaged in the administration of legislation similar to this Act;
- (ab) to a law enforcement agency.

6. The said Act is amended by adding thereto the following section:

Appointment
of receiver
and manager

21a.—(1) The Director may when he,

- (a) has ordered or is about to order an investigation under section 20;
- (b) has made or is about to make a directive under section 22;
- (c) has reasonable and probable grounds to believe that a person registered under this Act has failed or is about to fail to provide contracted and paid for travel services to a client;
- (d) is advised that a proposal to suspend or revoke a registration under section 5 or to temporarily suspend a registration under section 7 has been made; or

- (e) is advised that an investigation under section 19 has been ordered,

apply to a judge or a local judge of the Supreme Court for the appointment of a receiver and manager of an involved travel agent or travel wholesaler.

(2) A judge, upon an application being made under subsection (1), without notice or, where the judge considers that notice should be given, upon such notice as the judge stipulates, may, where it is considered in the public interest and subject to the *Bankruptcy Act* (Canada), appoint a receiver and manager to take possession and control of the business of the person in respect of whom an action referred to in subsection (1) applies for a period not exceeding sixty days.

Idem

R.S.C. 1970,
c. B-3

(3) An appointment made under subsection (2) may be extended, upon an application without notice, for an additional period not exceeding sixty days.

Extension

(4) A receiver and manager appointed under subsection (2) shall take possession and control of the assets of the business and shall thereafter conduct the business and take such steps as in his opinion should be taken toward its rehabilitation and, for such purposes, the receiver and manager have all the powers of the board of directors of the corporation, if the business is a corporation, or of a sole proprietor or all partners if the business is not a corporation and, without limiting the generality of the foregoing, the receiver and manager may,

Receiver
and manager
taking
control

- (a) exclude the directors, officers, servants and agents of the business from the premises and property of the business; and
- (b) carry on, manage and conduct the operations of the business and in the name of the business preserve, maintain, realize, dispose of and add to the property of the business, receive the incomes and revenues of the business.

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

Enforcement
of order

(6) Upon an application being made under this section, the rules of practice of the Supreme Court apply.

Rules of
practice

7. Section 22 of the said Act is amended by adding thereto the following subsection:

Application
re disposition

(6) The Director may, where he has given a direction under subsection (1) or a notice under subsection (4), apply to a judge or a local judge of the Supreme Court who may make an order as to the disposition of assets, trust funds or land affected by the direction or notice and as to costs.

8.—(1) Clause 27 (j) of the said Act is repealed.

(2) Section 27 of the said Act is amended by adding thereto the following clauses:

- (o) providing for the establishment, maintenance and administration of a compensation fund in trust by travel agents and travel wholesalers and prescribing the form and terms of the trust;
- (p) providing for the payment of levies into the compensation fund by travel agents and travel wholesalers and prescribing the amounts thereof;
- (q) providing for payment out of the compensation fund of claims and procedures to be followed in respect thereto;
- (r) requiring participation in the compensation fund by travel agents and travel wholesalers;
- (s) providing for the borrowing of moneys to supplement the compensation fund.

Commence-
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. The short title of this Act is the *Travel Industry Amendment Act, 1987*.

Bill 49

An Act to amend the Upholstered and Stuffed Articles Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations



1st Reading May 12th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to update the definition of Director, the reference to the Consumer Protection Division being no longer appropriate. The Registrar of Upholstered and Stuffed Articles is replaced by the Director of the Upholstered and Stuffed Articles Branch. The maximum penalties are being increased.

Bill 49**1987**

**An Act to amend the
Upholstered and Stuffed Articles Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (b) of the *Upholstered and Stuffed Articles Act*, being chapter 517 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(b) “Director” means the Director of the Upholstered and Stuffed Articles Branch.

(2) Clause 1 (1) (j) of the said Act is repealed.

2. Section 3 of the said Act is repealed and the following substituted therefor:

3. There shall be a Director of the Upholstered and Stuffed Articles Branch who shall be appointed by the Lieutenant Governor in Council to exercise the powers and perform the duties conferred or imposed on the Director under this Act. Director

3.—(1) Subsection 26 (1) of the said Act is amended by striking out “\$500” in the tenth line and inserting in lieu thereof “\$2,000” and by striking out “\$2,000” in the eleventh line and inserting in lieu thereof “\$10,000”.

(2) Subsection 26 (2) of the said Act is amended by striking out “\$500” in the fourth line and inserting in lieu thereof “\$2,000”.

4. Section 27 of the said Act is amended by striking out “\$250” in the fifth line and inserting in lieu thereof “\$1,000”.

5. The said Act and the regulations thereunder are amended by striking out “Registrar” wherever it occurs and inserting in lieu thereof in each instance “Director”.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Upholstered and Stuffed Articles Amendment Act, 1987*.

Bill 51

An Act to relieve Persons from Liability in respect of voluntary Emergency Medical and First Aid Services

Mr. Haggerty



1st Reading May 12th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to relieve persons from liability in respect of voluntary emergency first aid assistance or medical services rendered at or near the scene of an accident or other sudden emergency.

Bill 51

1987

**An Act to relieve
Persons from Liability in respect of
voluntary Emergency Medical and First Aid Services**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“physician” means a medical practitioner licensed under Part III of the *Health Disciplines Act*;

R.S.O. 1980,
c. 196

“registered nurse” means a person who is the holder of a certificate as a registered nurse issued under Part IV of the *Health Disciplines Act*.

2. Where, in respect of a person who is ill, injured or unconscious as the result of an accident or other emergency,

Relief
from liability
for damages

- (a) a physician or registered nurse voluntarily and without expectation of compensation or reward renders emergency medical services or first aid assistance and the services or assistance are not rendered at a hospital or other place having adequate medical facilities and equipment; or
- (b) a person other than a person mentioned in clause (a) voluntarily renders emergency first aid assistance and the assistance is rendered at the immediate scene of the accident or emergency,

the physician, registered nurse or other person shall not be liable for damages for injuries to or the death of such person alleged to have been caused by an act or omission on his or her part in rendering the medical services or first aid assistance, unless it is established that the injuries or death were caused by the gross negligence of the physician, registered nurse or other person.

Act does not
apply to
normal
medical
services

3. Nothing in section 2 shall be construed to relieve a physician from liability for damages for injuries to or the death of any person caused by an act or omission on the part of the physician in respect of medical services rendered by him in the normal and ordinary course of his practice and not under the circumstances set forth in section 2.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Good Samaritan Act, 1987*.

Bill 52

An Act to amend the Health Protection and Promotion Act, 1983

Mr. Pierce



1st Reading April 22nd, 1986
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

This Bill amends the *Health Protection and Promotion Act, 1983* to require physicians, nurses and pharmacists to report to their local medical officer of health any cases they encounter of severe reaction to the DPT vaccine given to infants and small children to protect them against diphtheria, pertussis and tetanus.

Bill 52

1987

An Act to amend the Health Protection and Promotion Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Health Protection and Promotion Act, 1983*, being chapter 10, is amended by adding thereto the following section:

37a.—(1) In this section, a “severe reaction” includes, but is not limited to, persistent crying or screaming, shock or collapse, convulsions, high fever and temporary or permanent brain damage.

Interpretation

(2) A physician or a person registered under Part IV or VI of the *Health Disciplines Act* to practise nursing or pharmacy who, while providing professional services to a child who has been immunized against diphtheria, pertussis and tetanus, forms the opinion that the child is suffering or has suffered from a severe reaction to the immunization shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Duty to
report
reactions to
immunization
R.S.O. 1980,
c. 196

2. Subsection 38 (1) of the said Act is amended by striking out “or a virulent disease” in the fifth line and inserting in lieu thereof “a virulent disease or a severe reaction to an immunization against diphtheria, pertussis and tetanus”.

3. Subsection 99 (2) of the said Act is amended by striking out “or” in the second line and by inserting after “disease” in the third line “or a severe reaction to an immunization against diphtheria, pertussis and tetanus”.

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

5. The short title of this Act is the *Health Protection and Promotion Amendment Act, 1987*.

Short title

Bill 52

An Act to amend the Health Protection and Promotion Act, 1983

Mr. Pierce



<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Social Development Committee)




EXPLANATORY NOTE

The Bill amends the *Health Protection and Promotion Act, 1983* to require physicians, nurses and pharmacists to report to their local medical officer of health any cases they encounter where they recognize the presence of a "reportable event", as defined in section 2 of the Bill, and believe it might be related to the administration of an immunizing agent referred to in the Bill. The immunizing agents referred to are set out in section 2 of the Bill.

The local medical officer of health is required to report to the Ministry any such reports received.

Persons administering immunizing agents are also required to report before such administration to the patient or the person consenting on the patient's behalf the benefits and possible adverse reactions to the agent.




Bill 52

1987

**An Act to amend the
Health Protection and Promotion Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 31 of the *Health Protection and Promotion Act, 1983*, being chapter 10, is amended by adding thereto the following subsection:

(2) Every medical officer of health shall report to the Ministry within seven days after receiving a report concerning a reportable event under section 37a that occurs in the health unit served by the medical officer of health. 

Reports
by M.O.H.
re events

2. The said Act is amended by adding thereto the following section:

37a.—(1) In this section,

Definitions

“immunizing agent” means a vaccine or combination of vaccines administered for immunization against diphtheria, tetanus, poliomyelitis, pertussis, measles, rubella, hepatitis B, rabies, *Haemophilus influenzae b* infections, influenza or a prescribed disease;

“reportable event” means,

- (a) persistent crying or screaming, anaphylaxis or anaphylactic shock occurring within forty-eight hours after the administration of an immunizing agent,
- (b) shock-like collapse, high fever or convulsions occurring within three days after the administration of an immunizing agent,
- (c) arthritis occurring within forty-two days after the administration of an immunizing agent,

- (d) generalized urticaria, residual seizure disorder, encephalopathy, encephalitis or any other significant occurrence occurring within fifteen days after the administration of an immunizing agent, or
- (e) death occurring at any time and following upon a symptom described in clause (a), (b), (c) or (d).

Duty to
inform
patients

(2) A physician or other person authorized to administer an immunizing agent shall, before administering it to a patient, inform the patient, or where the patient is not competent to consent, the person authorized to consent on the patient's behalf, of benefits or possible adverse reactions to it and of the importance of reporting to a physician forthwith any reaction that might be a reportable event.

Duty to
report
reactions
R.S.O. 1980,
c. 196

(3) A physician or person registered under Part IV (nursing) or VI (pharmacy) of the *Health Disciplines Act* who, while providing professional services to a person, recognizes the presence of a reportable event and forms the opinion that it may be related to the administration of an immunizing agent shall, within seven days after recognizing the reportable event, report thereon to the medical officer of health of the health unit where the professional services are provided.

Idem

(4) A medical officer of health who receives a report under subsection (3) concerning a person who resides in another health unit shall transmit the report to the medical officer of health serving the health unit in which the person resides. ▲

3. Subsection 38 (1) of the said Act is amended by striking out "or a virulent disease" in the fifth line and inserting in lieu thereof "a virulent disease or a reportable event following the administration of an immunizing agent".

4. Subsection 99 (2) of the said Act is amended by striking out "or" in the second line and by inserting after "disease" in the third line "or a reportable event following the administration of an immunizing agent".

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *Health Protection and Promotion Amendment Act, 1987*.

Bill 52

(Chapter 18
Statutes of Ontario, 1987)

An Act to amend the Health Protection and Promotion Act, 1983

Mr. Pierce

<i>1st Reading</i>	April 22nd, 1986
<i>2nd Reading</i>	April 22nd, 1986
<i>3rd Reading</i>	May 19th, 1987
<i>Royal Assent</i>	May 21st, 1987



Bill 52

1987

**An Act to amend the
Health Protection and Promotion Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 31 of the *Health Protection and Promotion Act, 1983*, being chapter 10, is amended by adding thereto the following subsection:

(2) Every medical officer of health shall report to the Ministry within seven days after receiving a report concerning a reportable event under section 37a that occurs in the health unit served by the medical officer of health.

Reports
by M.O.H.
re events

2. The said Act is amended by adding thereto the following section:

37a.—(1) In this section,

Definitions

“immunizing agent” means a vaccine or combination of vaccines administered for immunization against diphtheria, tetanus, poliomyelitis, pertussis, measles, rubella, hepatitis B, rabies, *Haemophilus influenzae* b infections, influenza or a prescribed disease;

“reportable event” means,

- (a) persistent crying or screaming, anaphylaxis or anaphylactic shock occurring within forty-eight hours after the administration of an immunizing agent,
- (b) shock-like collapse, high fever or convulsions occurring within three days after the administration of an immunizing agent,
- (c) arthritis occurring within forty-two days after the administration of an immunizing agent,

- (d) generalized urticaria, residual seizure disorder, encephalopathy, encephalitis or any other significant occurrence occurring within fifteen days after the administration of an immunizing agent, or
- (e) death occurring at any time and following upon a symptom described in clause (a), (b), (c) or (d).

Duty to
inform
patients

(2) A physician or other person authorized to administer an immunizing agent shall, before administering it to a patient, inform the patient, or where the patient is not competent to consent, the person authorized to consent on the patient's behalf, of benefits or possible adverse reactions to it and of the importance of reporting to a physician forthwith any reaction that might be a reportable event.

Duty to
report
reactions
R.S.O. 1980,
c. 196

(3) A physician or person registered under Part IV (nursing) or VI (pharmacy) of the *Health Disciplines Act* who, while providing professional services to a person, recognizes the presence of a reportable event and forms the opinion that it may be related to the administration of an immunizing agent shall, within seven days after recognizing the reportable event, report thereon to the medical officer of health of the health unit where the professional services are provided.

Idem

(4) A medical officer of health who receives a report under subsection (3) concerning a person who resides in another health unit shall transmit the report to the medical officer of health serving the health unit in which the person resides.

3. Subsection 38 (1) of the said Act is amended by striking out "or a virulent disease" in the fifth line and inserting in lieu thereof "a virulent disease or a reportable event following the administration of an immunizing agent".

4. Subsection 99 (2) of the said Act is amended by striking out "or" in the second line and by inserting after "disease" in the third line "or a reportable event following the administration of an immunizing agent".

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *Health Protection and Promotion Amendment Act, 1987*.

Bill 53

An Act to amend the Public Service Superannuation Act

Mr. McLean



1st Reading May 12th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to suspend superannuation allowances while a person entitled thereto is receiving any salary, fee or compensation from the Province of Ontario.

Bill 53

1987

**An Act to amend the
Public Service Superannuation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

44. A superannuation allowance under this Act shall be suspended while the person entitled thereto,

Suspension
of super-
annuation
allowance

(a) is a member of any commission, board, committee or other body holding office at the nomination of the Lieutenant Governor in Council for which any salary, fee or compensation is paid; or

(b) is employed in the public service.

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Public Service Superannuation Amendment Act, 1987*.

Short title

Bill 54

An Act to amend the Legislative Assembly Retirement Allowances Act

Mr. McLean



1st Reading May 12th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to suspend retirement allowances while a person entitled thereto is receiving compensation for acting as a member of a board, commission or other body holding office at the nomination of the Lieutenant Governor in Council.

Bill 54

1987

**An Act to amend the
Legislative Assembly Retirement Allowances Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Legislative Assembly Retirement Allowances Act*, being chapter 236 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

33. An allowance under this Act shall be suspended while the person entitled thereto is a member of any commission, board, committee or other body holding office at the nomination of the Lieutenant Governor in Council for which any salary, fee or compensation is paid.

Suspension
of
allowance

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Legislative Assembly Retirement Allowances Amendment Act, 1987*.

Short title

Bill 55

An Act to amend the Teachers' Superannuation Act, 1983

The Hon. S. Conway
Minister of Education



<i>1st Reading</i>	May 13th, 1987
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

EXPLANATORY NOTE

The purpose of the Bill is to allow teachers who have not yet attained sixty-five years of age but who have thirty-five years of service in the Teachers' Superannuation Fund to retire between May 31, 1987 and September 1, 1990 without any actuarial reduction in their pensions.

Bill 55

1987

**An Act to amend the
Teachers' Superannuation Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 12 of the *Teachers' Superannuation Act, 1983*, being chapter 84, is amended by adding thereto the following subsection:

(1a) Every person who ceases to be employed in education after the 31st day of May, 1987 and before the 1st day of September, 1990 and who has at least thirty-five years of credit in the Fund is entitled to an annual superannuation allowance during the person's lifetime.

Allowance
after 35 years
of credit

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Teachers' Superannuation Amendment Act, 1987*.

Short title

Bill 55

*(Chapter 19
Statutes of Ontario, 1987)*

An Act to amend the Teachers' Superannuation Act, 1983

The Hon. S. Conway
Minister of Education

<i>1st Reading</i>	May 13th, 1987
<i>2nd Reading</i>	May 27th, 1987
<i>3rd Reading</i>	May 27th, 1987
<i>Royal Assent</i>	May 27th, 1987

Bill 55

1987

**An Act to amend the
Teachers' Superannuation Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 12 of the *Teachers' Superannuation Act, 1983*, being chapter 84, is amended by adding thereto the following subsection:

(1a) Every person who ceases to be employed in education after the 31st day of May, 1987 and before the 1st day of September, 1990 and who has at least thirty-five years of credit in the Fund is entitled to an annual superannuation allowance during the person's lifetime.

Allowance
after 35 years
of credit

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Teachers' Superannuation Amendment Act, 1987*.

Short title

Bill 56

An Act to control temporarily Automobile Insurance Rates in Ontario

The Hon. M. Kwinter
Minister of Financial Institutions



1st Reading May 14th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill 56

1987

**An Act to control temporarily
Automobile Insurance Rates in Ontario**

Whereas concern has been expressed about continuing increases in the cost of automobile insurance in Ontario; and whereas the Minister of Financial Institutions announced on the 23rd day of April, 1987 that a board will be established to review and set automobile insurance rates and that, pending the establishment of the said board, premiums for all automobile insurance should be controlled as provided in this Act; and whereas, pending the introduction and enactment of legislation to establish the said board, it is desirable that legislation be enacted to control premiums temporarily, as provided in this Act;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“automobile insurance” has the same meaning as in section 1 of the *Insurance Act*, except that it does not include insurance for any motor vehicle or trailer that may be operated on a highway without a permit issued under section 7 of the *Highway Traffic Act*;

R.S.O. 1980,
cc. 218, 198

“capped rate” means,

- (a) in the case of any coverage under a contract of automobile insurance, other than a coverage provided through the Facility Association or a coverage to which clause (b) or (c) applies, the lesser of,
 - (i) the premium that would have been charged for the coverage for comparable risks for a term commencing on the 23rd day of April, 1987 had the premium been calculated using the rules, procedures and factors used by the insurer on that date, and

- (ii) the premium that would have been charged for the coverage for comparable risks for a term commencing on the 23rd day of April, 1987 had the premium been calculated using the Facility Association rate in effect on that date,
- (b) in the case of a premium for any coverage determined in whole or in part on the basis that an insured under the contract is a male under the age of twenty-five years,
 - (i) 90 per cent of the premium described in subclause (a) (ii) if the insured is insured through the Facility Association,
 - (ii) 90 per cent of the lesser of the premiums described in subclauses (a) (i) and (ii) if the insured is not insured through the Facility Association,
- (c) in the case of a premium for any coverage determined in whole or in part on the basis that an automobile insured under the contract is a taxi, the lesser of,
 - (i) the premium described in subclause (a) (i), and
 - (ii) 90 per cent of the premium described in subclause (a) (ii);

R.S.O. 1980,
c. 83

“Facility Association rate” means the premium for a coverage determined under the Plan of Operation of the Facility Association under the *Compulsory Automobile Insurance Act*;

R.S.O. 1980,
c. 218

“insured” means an insured as defined in section 201 of the *Insurance Act*;

“insurer” means an insurer licensed under the *Insurance Act* and carrying on the business of automobile insurance but does not include an insurer whose licence is limited to contracts of reinsurance;

“taxi” means a private passenger type automobile used in the business of carrying not more than seven passengers to destinations designated by the passengers or to or from an airport.

2. No insurer shall charge any premium for a coverage under a contract of automobile insurance the term of which commences after the 23rd day of April, 1987 that exceeds the capped rate for the coverage. Premiums capped

3.—(1) An insurer shall use the same rules, procedures and factors in determining risks and premiums with respect to coverages under contracts of automobile insurance the terms of which commence after the 23rd day of April, 1987 as are required to determine the capped rate for the coverages. Determination of risks and premiums

(2) Notwithstanding subsection (1), an insurer may use different rules, procedures and factors in determining risks and premiums if their use results in premiums that are lower than the capped rate. Exception

4.—(1) An insurer, with respect to a contract of automobile insurance described in paragraph 1 or 2 of subsection (2) and in accordance with that subsection, shall compensate the policyholder or reduce the premiums payable by the policyholder for the coverage, or both, if the capped rate for the coverage is less than the premium paid or payable for the coverage. Compensation

(2) The compensation, reduction or compensation and reduction to which a policyholder is entitled under subsection (1) shall be as follows: Calculation

- 1. If the contract is for a term commencing after the 23rd day of April, 1987, the amount by which the premium paid or payable for the coverage exceeds the capped rate; and
- 2. If the contract was in effect on the 23rd day of April, 1987 and the coverage is one described in clause (b) or (c) of the definition of “capped rate” in section 1, the amount determined in accordance with the following formula:

$$C = (P - R) \times \frac{n}{N}$$

where,

C = The total amount of the compensation, reduction or compensation and reduction to which the policyholder is entitled.

P = The premium charged for the coverage.

R = The premium that would have been charged for the coverage had the capped rate been used in determining the premium for the coverage.

n = The number of full days from the 23rd day of April, 1987 to the expiry of the contract.

N = The term of the contract in days.

Interest

(3) An insurer shall pay the policyholder interest on compensation due or on any overpayment of premiums at the prescribed rate payable from the 31st day of July, 1987, in the case of compensation and from the date of the overpayment if the policyholder is entitled to a reduction of premiums and the policyholder is also entitled to a refund of the overpayment.

Definition

(4) For the purposes of subsection (3), "prescribed rate" means the bank rate established by the Bank of Canada and in effect on the 31st day of July, 1987 as the minimum rate at which the Bank of Canada makes short-term advances to banks named in Schedules A and B to the *Bank Act* (Canada) rounded to the next higher whole number where the bank rate contains a fraction plus one percentage point.

1980-81,
c. 40 (Can.)

Form of
compensation

(5) The compensation to which a policyholder is entitled under this section shall be in the form of a refund or a credit against unpaid premiums unless the policyholder agrees to some other form of compensation.

Restriction
on compen-
sation

(6) No compensation is payable to a policyholder under this section if the compensation determined under subsection (2) is less than \$10.

Date

(7) An insurer shall have until the 31st day of July, 1987 to comply with this section.

Information

5.—(1) An insurer shall make a return to the Superintendent of Insurance, in such form and at such times as the Superintendent may require, showing such information with respect to rates fixed, made or charged by the insurer in relation to contracts of automobile insurance together with such other information concerning such rates and contracts as the Superintendent may require.

Idem

(2) The Superintendent may require that every return under subsection (1) be verified by the affidavit of such officer of the insurer as is specified in the request for the return and

the affidavit shall be in such form as the Superintendent may specify.

(3) Requirements for returns issued by the Superintendent on the 24th day of April, 1987 under subsection 366 (2) of the *Insurance Act* in relation to contracts of automobile insurance shall be deemed to be requirements made under this section.

Idem

R.S.O. 1980,
c. 218

(4) Where there is any change that makes obsolete information returned to the Superintendent under this section, the insurer shall forthwith provide the Superintendent with all relevant details of the change.

Idem

6.—(1) The Minister of Financial Institutions may appoint employees of the Ministry of Financial Institutions as investigators to carry out investigations related to the enforcement of this Act.

Appointment
of investi-
gators

(2) An investigator, in carrying out an investigation under subsection (1), may,

Powers on
investigation

- (a) enter offices of any insurer;
- (b) require any officer, director or employee of an insurer to furnish information within a reasonable specified time;
- (c) require any officer, director or employee of an insurer to produce any document or thing in his or her possession or control; and
- (d) on giving a receipt therefor, remove from a place documents produced in response to a request under clause (c) for the purpose of making copies thereof or extracts therefrom and shall promptly return them to the person who produced them.

(3) The powers conferred by this section shall be exercised only at reasonable times.

Reasonable
times

(4) An investigator exercising a power under this section shall provide identification at the time of entry.

Identification

(5) Copies of, or extracts from, documents and things removed from premises under this Act and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Admissibility
of copies

Obstruction
of
investigator

(6) No person shall hinder or obstruct an investigator in the lawful performance of his or her duties or furnish an investigator with false information or refuse to furnish an investigator with information, documents or things required for the purposes of an investigation under this section.

Restraining
orders, etc.

7. Where the Superintendent of Insurance, on reasonable grounds, believes that an insurer has contravened, is contravening or is about to contravene this Act, the Superintendent, after giving the insurer an opportunity to be heard, may order the insurer to,

- (a) cease or refrain from contravening this Act; and
- (b) perform such acts as, in the opinion of the Superintendent, are necessary to remedy the situation.

Enforcement

8.—(1) Every insurer who contravenes or fails to comply with this Act or a requirement or order made under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$100,000.

Idem

(2) Every individual who contravenes subsection 6 (6) or an order made under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

Limitation
period

(3) No proceeding for an offence under this Act shall be commenced in any court more than two years after the facts upon which the proceedings are based first came to the knowledge of the Superintendent of Insurance.

Compensation

(4) Where an insurer is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the insurer convicted to make compensation in relation thereto.

Repeal

9. This Act is repealed on the earlier of,

- (a) the 31st day of December, 1987; and
- (b) a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. The short title of this Act is the *Automobile Insurance Act, 1987*.

Bill 57

An Act to amend the Gasoline Handling Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations



1st Reading May 14th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The main purpose of the Bill is to provide a means to ascertain the number and location of underground tanks located on private outlets that are being used to store gasoline or associated products. In connection with this some safety requirements are being implemented.

The use of the terms "private outlet" and "retail outlet" are being substituted for "consumer outlet" and "service station" respectively.

Bill 57

1987

An Act to amend the Gasoline Handling Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (c) of the *Gasoline Handling Act*, being chapter 185 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Section 1 of the said Act is amended by adding thereto the following clauses:

(la) “private outlet” means any premises at which gasoline or an associated product of the operator of the outlet is put into the fuel tanks of motor vehicles used by the operator of the outlet or into portable containers used by the operator of the outlet;

.

(ma) “retail outlet” means any premises at which gasoline or an associated product is sold and is put into the fuel tanks of motor vehicles or into portable containers.

(3) Clause 1 (n) of the said Act is repealed.

2. Clause 2 (c) of the said Act is amended by striking out “service station, consumer outlet” in the first line and inserting in lieu thereof “private outlet, retail outlet”.

3. Section 3 of the said Act is amended by striking out “service station, consumer outlet” in the first line and inserting in lieu thereof “private outlet, retail outlet”.

4.—(1) Clause 6 (1) (a) of the said Act is amended by striking out “service station” and inserting in lieu thereof “retail outlet”.

(2) Subsection 6 (2) of the said Act is amended by striking out “consumer outlet” in the second line and inserting in lieu thereof “private outlet” and by striking out “service station” in the second and third lines and inserting in lieu thereof “retail outlet”.

5. The said Act is amended by adding thereto the following section:

Application
at private
outlets only

6a.—(1) The application of this section is limited to underground tanks located at private outlets or at sites that were private outlets.

Declaration

(2) Any owner of an underground tank that is being used for the storage of gasoline or an associated product or, if the owner is not the operator of the private outlet, the operator of the outlet using the tank may file with the Director a declaration relating to the tank in a form prescribed by the regulations.

Endorsed
copy

(3) The Director, upon receiving a declaration under subsection (2), shall forward, to the person sending in the declaration, an endorsed copy thereof.

Idem

(4) No person, after the 31st day of December, 1987 or such later date as may be prescribed by regulation, shall,

(a) use an underground tank or cause an underground tank to be used unless a declaration relating to the tank has been endorsed by the Director; or

(b) put gasoline or an associated product into an underground tank unless a declaration relating to the tank has been endorsed by the Director.

Supplying
gasoline to
underground
tanks

(5) Every person who supplied gasoline or an associated product to an underground tank at any time in 1986 shall, by the 31st day of March, 1987 or such later date as may be prescribed by regulation, provide the Director with the address of the outlet and the name of the person who purchased the product.

Idem

(6) Every person who supplied gasoline or an associated product to an underground tank between the 1st day of January, 1987 and the 30th day of September, 1987 shall, by the 31st day of October, 1987 or such later date as may be prescribed by regulation, provide the Director with the address of the outlet and the name of the person who purchased the product.

(7) Subsection (6) does not apply to a person who has supplied the address of the outlet and name of the purchaser under subsection (5). Idem

(8) Upon the Director receiving satisfactory evidence that an underground tank and associated piping are protected from external corrosion in accordance with the regulations, the Director shall issue a written acknowledgment thereof. Acknowledgment of tank protection

(9) No person shall put gasoline or an associated product in an underground tank after the 1st day of January, 1991 unless an acknowledgment under subsection (8) has been issued in respect of the tank. Requirement for acknowledgment

(10) Every owner of an underground tank that has been used for the storage of gasoline or an associated product but is not in use when this section comes into force or ceases to be used before a declaration is filed under subsection (2) shall file with the Director a declaration relating to the tank in a form prescribed by the Director within six months after this section comes into force or the tank ceases to be used, whichever is the later. Out of use tanks

6. This Act comes into force on the day it receives Royal Assent. Commencement

7. The short title of this Act is the *Gasoline Handling Amendment Act, 1987*. Short title

Bill 58

An Act respecting Simcoe Day

Mr. McLean



1st Reading May 14th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to change the name of the public holiday celebrated in many municipalities on the first Monday in August from "Civic Holiday" to Simcoe Day in honour of John Graves Simcoe who was appointed first Lieutenant Governor of Upper Canada on September 12th, 1791, and who convened the first legislative assembly and established the capital of the Province at York, now Toronto.

Bill 58

1987

An Act respecting Simcoe Day

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Where the first Monday in August in any year is proclaimed a public holiday in a municipality, the name of the holiday shall be Simcoe Day. Simcoe Day

2. Any Act, regulation, proclamation, contract or document that refers to a public holiday by the name of “Civic Holiday” shall be deemed to refer to Simcoe Day. Other references

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. The short title of this Act is the *Simcoe Day Act, 1987*. Short title

Bill 59

An Act to amend the Landlord and Tenant Act

Mr. Jackson



1st Reading May 14th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to ensure that roomers, boarders and lodgers are protected by the *Landlord and Tenant Act*. However, the Bill specifically excludes homes occupied by their owners where no more than four roomers, boarders or lodgers are accommodated.

Bill 59

1987

An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (e) of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (e) “tenant” includes lessee, occupant, sub-tenant, under-tenant, roomer, boarder, lodger, and his, her and their assigns and legal representatives.

2. Section 2 of the said Act is amended by adding thereto the following subsection:

- (2) This Act does not apply to a tenancy in a private home that is occupied by its owner where no more than four persons are tenants in the home and those persons are roomers, boarders or lodgers. Idem

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Landlord and Tenant Amendment Act, 1987*. Short title

Bill 60

An Act to amend the Children's Law Reform Act

The Hon. I. Scott
Attorney General



1st Reading May 19th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

Section 4 of the Bill adds section 35a to the Act, creating what is intended to be a speedy remedy for access difficulties.

If an existing court order provides for access to a child at specific times or on specific days (or if a separation agreement containing specific access provisions has been filed with the Provincial Court (Family Division) or the Unified Family Court), a person who claims that he or she was wrongfully denied access to the child may make a motion to the court.

The motion will be heard within three days of being served. It can only be made within thirty days after the alleged denial of access. Normally the hearing will deal only with oral evidence relating directly to the alleged denial of access and the reasons for it. This is intended to ensure expeditious hearings.

If the court is satisfied that a wrongful denial of access took place, it may make a variety of orders, including an order for compensatory access, supervision or (if the parties agree) mediation. It is also possible for the court to order that the moving party be reimbursed for reasonable expenses actually incurred as a result of the denial of access, or to order that the responding party give security for the performance of his or her obligation. Similar remedies are available for a person with custody who claims that a person with a right of access failed, without reasonable notice and excuse, to exercise the right of access or to return the child as the order requires.

Criteria are provided to assist the court in determining whether a denial of access was wrongful.

Section 1 of the Bill amends section 24 of the Act to make it clear that the overriding principle of the best interests of the child, which governs applications under Part III of the Act (Custody, Access and Guardianship), also governs enforcement motions under proposed section 35a.

The new remedy created in section 35a of the Act is not available if the access order or separation agreement fails to specify times or days when access is to be exercised. **Section 2 of the Bill** adds section 28a to the Act, to provide a mechanism for varying those orders and agreements by specifying times or days. Access provisions that have been varied in this way can then be enforced under new section 35a.

Section 3 of the Bill makes a related amendment to section 29 of the Act (which provides that custody and access orders may not be varied unless there has been a material change in circumstances). The amendment clarifies that this restriction does not apply to orders made under section 28a or 35a.

Section 5 of the Bill rewords subsection 36 (1) of the Act (which deals with restraining orders) to match more closely the wording of subsection 46 (1) of the *Family Law Act, 1986*.

Bill 60

1987

An Act to amend the Children's Law Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 24 (1) of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by inserting after “application” in the first line “or motion”.

(2) Subsection 24 (2) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by inserting after “application” in the second line “or motion”.

(3) Subsection 24 (3) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by inserting after “application” in the second line “or motion”.

2. The said Act is amended by adding thereto the following section:

28a.—(1) If an order in respect of access to a child provides for a person's access to the child without specifying times or days, a party to the order may apply to a court to vary the order by specifying times or days.

Application
to fix times
or days of
access

(2) The court may vary the order by specifying the times or days agreed to by the parties, or the times or days the court considers appropriate if the parties do not agree.

Order

(3) Subsection (1) also applies, with necessary modifications, in respect of a separation agreement under section 54 of the *Family Law Reform Act, 1986* or a predecessor of that section that provides for a person's access to a child without specifying times or days.

Separation
agreements
1986, c. 4

(4) Subsection (1) does not apply in respect of orders made under the *Divorce Act, 1985* (Canada) or a predecessor of that Act.

Exception
S.C. 1986,
c. 4

3. Section 29 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is amended by adding thereto the following subsection:

Exception

(2) Subsection (1) does not apply in respect of orders made under subsection 28a (2) (fixing times or days of access) or 35a (2) or (6) (access enforcement, etc.).

4. The said Act is further amended by adding thereto the following section:

Motion to
enforce right
of access

35a.—(1) A person in whose favour an order has been made for access to a child at specific times or on specific days and who claims that a person in whose favour an order has been made for custody of the child has wrongfully denied him or her access to the child may make a motion to the court that made the order for relief under subsection (2).

Order for
relief

(2) If the court is satisfied that the responding party wrongfully denied the moving party access to the child, the court may, by order,

- (a) require the responding party to give the moving party compensatory access to the child for the period agreed to by the parties, or for the period the court considers appropriate if the parties do not agree;
- (b) require supervision as described in section 35;
- (c) require the responding party to reimburse the moving party for any reasonable expenses actually incurred as a result of the wrongful denial of access;
- (d) require the responding party to give security for the performance of his or her obligation to give the moving party access to the child;
- (e) appoint a mediator in accordance with section 31 as if the motion were an application for access.

Period of
compensatory
access

(3) A period of compensatory access shall not be longer than the period of access that was wrongfully denied.

What
constitutes
wrongful
denial

(4) A denial of access is wrongful unless it is justified by a serious and legitimate reason such as one of the following:

1. The responding party believed on reasonable grounds that there would be a substantial risk of

serious physical or emotional harm to the child if the right of access were exercised.

2. The responding party believed on reasonable grounds that the moving party was impaired by alcohol or a drug at the time of access.
3. The moving party failed to present himself or herself to exercise the right of access within one hour of the time specified in the order or the time otherwise agreed on by the parties.
4. The child was seriously ill.
5. The moving party did not satisfy written conditions concerning access that were agreed to by the parties or that form part of the order for access.
6. On numerous occasions during the preceding year, the moving party had failed, without reasonable notice and excuse, to exercise the right of access.
7. The moving party had informed the responding party that he or she would not seek to exercise the right of access on the occasion in question.

(5) A person in whose favour an order has been made for custody of a child and who claims that a person in whose favour an order has been made for access to the child has, without reasonable notice and excuse, failed to exercise the right of access or to return the child as the order requires, may make a motion to the court that made the access order for relief under subsection (6).

Motion re failure to exercise of right of access, etc.

(6) If the court is satisfied that the responding party failed, without reasonable notice and excuse, to exercise the right of access or to return the child as the order requires, the court may, by order,

Order for relief

- (a) require supervision as described in section 35;
- (b) require the responding party to reimburse the moving party for any reasonable expenses actually incurred as a result of the failure to exercise the right of access or to return the child as the order requires;
- (c) require the responding party to give security for the performance of his or her obligation to exercise the

right of access and to return the child as the order requires;

- (d) appoint a mediator in accordance with section 31 as if the motion were an application for access.

Speedy hearing

(7) A motion under subsection (1) or (5) shall be heard within three days after it has been served.

Limitation

(8) A motion under subsection (1) or (5) shall not be made more than thirty days after the alleged denial or failure.

Oral evidence only

(9) The motion shall be determined on the basis of oral evidence only, unless the court gives leave, in exceptional circumstances, to file an affidavit.

Scope of evidence at hearing limited

(10) At the hearing of the motion, unless the court orders otherwise, evidence shall be admitted only if it is directly related to,

- (a) the alleged denial of access or failure to exercise the right of access or return the child as the order requires; or
- (b) the responding party's reasons for the denial or failure.

Separation agreement may be filed with court 1986, c. 4

(11) A person who is a party to a separation agreement made under section 54 of the *Family Law Act, 1986* or a predecessor of that section may file the agreement with the clerk of the Provincial Court (Family Division) or of the Unified Family Court, together with the person's affidavit stating that the agreement is in effect and has not been set aside or varied by a court or agreement.

Effect of filing

(12) When a separation agreement providing for access to a child at specific times or on specific days is filed in this manner, subsections (1) and (5) apply as if the agreement were an order of the court where it is filed.

Motions made in bad faith

(13) If the court is satisfied that a person has made a motion under subsection (1) or (5) in bad faith, the court may prohibit him or her from making further motions without leave of the court.

Idem
S.C. 1986,
c. 4

(14) Subsections (1) and (5) do not apply in respect of orders made under the *Divorce Act, 1985* (Canada) or a predecessor of that Act.

(15) Subsections (1) and (5) do not apply in respect of a denial of access or a failure to exercise a right of access or to return a child as the order or agreement requires that takes place before the day section 4 of the *Children's Law Reform Amendment Act, 1987* comes into force.

Application
1987, c....

5. Subsection 36 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 8, section 4, is repealed and the following substituted therefor:

(1) On application, a court may make an interim or final order restraining a person from molesting, annoying or harassing the applicant or children in the applicant's lawful custody, or from communicating with the applicant or children, except as the order provides, and may require the person to enter into the recognizance that the court considers appropriate.

Order
restraining
harassment

6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

7. The short title of this Act is the *Children's Law Reform Amendment Act, 1987*.

Short title

Bill 61

An Act to amend the Drugless Practitioners Act

Mr. Shymko



1st Reading May 19th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to ensure that naturopaths are covered by the *Drugless Practitioners Act*.

SECTION 1. Clause 1 (b) now reads:

(b) "*drugless practitioner*" means a person who practises or advertises or holds himself out in any way as practising the treatment of any ailment, disease, defect or disability of the human body by manipulation, adjustment, manual or electrotherapy or by any similar method.

The amendment makes it clear that naturopaths are included in the definition.

SECTION 2. Section 4 now reads:

4. *The Lieutenant Governor in Council may make regulations classifying persons admitted to practise under this Act and for prescribing the systems of treatment that may be followed by drugless practitioners of different classes.*

The amendment makes it clear in the statute that naturopaths are a class of drugless practitioners under the Act.

Bill 61

1987

An Act to amend the Drugless Practitioners Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (b) of the *Drugless Practitioners Act*, being chapter 127 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof “and includes a naturopath”.

2. Section 4 of the said Act is repealed and the following substituted therefor:

4.—(1) Naturopaths are a class of persons admitted to practise under this Act. Naturopaths

(2) The Lieutenant Governor in Council may make regulations classifying persons in addition to naturopaths who may be admitted to practice under this Act. Regulations

(3) The Lieutenant Governor in Council may make regulations for prescribing the systems of treatment that may be followed by drugless practitioners of different classes. Idem

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Drugless Practitioners Amendment Act, 1987*. Short title

Bill 62

An Act to amend the Retail Sales Tax Act

The Hon. R. Nixon
Minister of Revenue



1st Reading May 20th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Treasurer's Budget of May 20, 1987 and in addition contains administrative changes and clarification.

SECTION 1.—Subsection 1. The effect of the amendment is to expand the exemption from tax to the purchaser of prepared food products from an eating establishment to include prepared food products sold at a price that does not exceed four dollars.

Subsection 2. Paragraph 38 of subsection 5 (1) of the Act exempts from tax equipment designed solely for the use of persons who are chronic invalids or physically handicapped; the amendment replaces the reference to "persons who are physically handicapped" with the more appropriate description of such persons currently recommended by the Secretariat for Disabled Persons.

SECTION 2. Subsection 16 (5) of the Act provides that the Minister shall serve a notice of assessment under subsection 16 (2) or (3) by prepaid mail; the amendment adds personal service as an alternative method of service.

SECTION 3. The amendment is complementary to the enactment of subsection 30 (1a) by subsection 7 (2) of the Bill.

SECTION 4. The effect of the amendment is to remove the requirement that tangible personal property be purchased at a sale in Ontario in order for a penalty for understating the fair value of property purchased be assessed against the purchaser.

SECTION 5. The amendment recognizes that personal service is an alternative to the sending by mail of a notice of assessment issued under the authority of subsection 16 (4) or (5) of the Act.

SECTION 6.—Subsection 1. The amendment is complementary to the enactment of subsection 30 (1a) of the Act by subsection 2 of this section that deals separately with the penalty for the failure to remit taxes.

Subsection 2. New subsection 30 (1a) sets out the penalty to which a vendor who fails to remit taxes payable as shown on the vendor's return is liable; that penalty is 10 per cent of the amount which the vendor failed to remit up to a maximum of \$1,000.

Bill 62**1987****An Act to amend the Retail Sales Tax Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 1 of subsection 5 (1) of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 1, section 3 and amended by 1986, chapter 66, section 4, is further amended by,

- (a) striking out “two dollars” in the seventh line of clause (a) and inserting in lieu thereof “four dollars”; and
- (b) striking out “two dollars” in the third line of clause (b) and inserting in lieu thereof “four dollars”.

(2) Paragraph 38 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3 and amended by 1983, chapter 27, section 4, is further amended by striking out “physically handicapped” in the second line and inserting in lieu thereof “persons with a physical disability”.

2. Subsection 16 (5) of the said Act is amended by inserting after “mail” in the first line “or personal service”.

3. Subsection 16a (1) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 27, section 7, is amended by inserting after “30 (1)” in the second line “(1a)”.

4. Subsection 17 (5) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 8, is further amended by striking out “at a sale in Ontario” in the first line.

5. Subsection 18 (1) of the said Act is amended by inserting after “mailing” in the second line “or personal service”.

6.—(1) Subsection 30 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 10, is further amended by striking out “or who fails to remit with his return the amount of taxes collectable or payable by him as shown therein” in the second, third and fourth lines.

(2) Section 30 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 10, is further amended by adding thereto the following subsection:

Penalty for
default in
remitting tax

(1a) Every vendor who fails to remit with his or her return the amount of taxes collectable or payable by the vendor as shown therein, shall pay a penalty of,

(a) an amount equal to 10 per cent of the tax he or she failed to remit if the amount of such tax is less than \$10,000; or

(b) \$1,000, if the amount of such tax is \$10,000 or more.

Commence-
ment

7.—(1) This Act, except section 1, comes into force on the day it receives Royal Assent.

Idem

(2) Section 1 shall be deemed to have come into force on the 1st day of June, 1987.

Short title

8. The short title of this Act is the *Retail Sales Tax Amendment Act, 1987*.

Bill 62

*(Chapter 26
Statutes of Ontario, 1987)*

An Act to amend the Retail Sales Tax Act

The Hon. R. Nixon
Minister of Revenue

<i>1st Reading</i>	May 20th, 1987
<i>2nd Reading</i>	June 4th, 1987
<i>3rd Reading</i>	June 15th, 1987
<i>Royal Assent</i>	June 29th, 1987

Bill 62**1987****An Act to amend the Retail Sales Tax Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 1 of subsection 5 (1) of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 1, section 3 and amended by 1986, chapter 66, section 4, is further amended by,

- (a) striking out “two dollars” in the seventh line of clause (a) and inserting in lieu thereof “four dollars”; and
- (b) striking out “two dollars” in the third line of clause (b) and inserting in lieu thereof “four dollars”.

(2) Paragraph 38 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3 and amended by 1983, chapter 27, section 4, is further amended by striking out “physically handicapped” in the second line and inserting in lieu thereof “persons with a physical disability”.

2. Subsection 16 (5) of the said Act is amended by inserting after “mail” in the first line “or personal service”.

3. Subsection 16a (1) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 27, section 7, is amended by inserting after “30 (1)” in the second line “(1a)”.

4. Subsection 17 (5) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 8, is further amended by striking out “at a sale in Ontario” in the first line.

5. Subsection 18 (1) of the said Act is amended by inserting after “mailing” in the second line “or personal service”.

6.—(1) Subsection 30 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 10, is further amended by striking out “or who fails to remit with his return the amount of taxes collectable or payable by him as shown therein” in the second, third and fourth lines.

(2) Section 30 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 10, is further amended by adding thereto the following subsection:

Penalty for
default in
remitting tax

(1a) Every vendor who fails to remit with his or her return the amount of taxes collectable or payable by the vendor as shown therein, shall pay a penalty of,

(a) an amount equal to 10 per cent of the tax he or she failed to remit if the amount of such tax is less than \$10,000; or

(b) \$1,000, if the amount of such tax is \$10,000 or more.

Commence-
ment

7.—(1) This Act, except section 1, comes into force on the day it receives Royal Assent.

Idem

(2) Section 1 shall be deemed to have come into force on the 1st day of June, 1987.

Short title

8. The short title of this Act is the *Retail Sales Tax Amendment Act, 1987*.

Bill 63

An Act to amend the Income Tax Act

The Hon. R. Nixon
Minister of Revenue



1st Reading May 20th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Treasurer's Budget of May 20th, 1987 and includes in addition some administrative changes to the Act.

SECTION 1. Section 2b of the Act provides for the payment of a 3 per cent surcharge and is set out below showing underlined the words proposed to be deleted:

2b. Every individual shall, in addition to the amount of tax otherwise payable by such taxpayer under this Act, pay an additional income tax in respect of the 1986 and subsequent taxation years equal to 3 per cent of the amount, if any, by which the tax that would, but for section 120.1 of the Federal Act, be otherwise payable for the taxation year under this Act, before any deduction authorized under subsection 3 (8) or section 7, exceeds \$5,000.

The effect of the amendment is to require the surcharge to be paid on all the tax payable for the year, including tax payable under the forward averaging provisions of the Federal Act.

SECTION 2. The purpose of the amendment is to ensure the foreign tax credit that may be deducted against the Federal surtax cannot also be deducted in computing the Ontario tax.

SECTION 3. Section 6 of the Act provides for a tax reduction for an individual whose taxable income falls below the amount prescribed for a particular taxation year. Subsection 6 (3), as re-enacted, makes that reduction not available to an individual whose tax payable under the Federal Act for a taxation year is determined by the provisions of that Act requiring the payment of a minimum tax.

SECTION 4.—Subsection 1. The repeal of subclause 7 (1) (f) (vii) of the Act removes the disqualification of a foreign student lawfully admitted to Canada to attend a university, college or other educational institution from claiming a property tax credit.

Subsection 2. Clauses 7 (1) (g), (h), (i) and (j) of the Act are re-enacted to recognize the change in name of the *Election Finances Reform Act* to the *Election Finances Act, 1986* and the change in name of the Commission on Election Contributions and Expenses to the Commission on Election Finances; there is no change in substance.

Subsection 3. Subsection 7 (2) of the Act provides for a property tax credit in accordance with a formula set out therein.

Clause 7 (2) (a) is set out below showing underlined the amendment to subclause (i):

(a) where the individual is a principal taxpayer, a tax credit equal to the sum of,

(i) the lesser of his occupancy cost for the taxation year or \$180, and

(ii) an amount equal to 10 per cent of this occupancy cost for the taxation year; and

Subsection 4. The amendment is complementary to the repeal of subclause 7 (1) (f) (vii) of the Act by subsection 4 (1) of the Bill.

SECTION 5. Subsection 12 (3) of the *Income Tax Amendment Act, 1985* provides for the coming into force and application of certain provisions of that Act and now reads as follows:

(3) Section 1 and subsection 2 (3) come into force on the 1st day of January, 1986, and apply with respect to the 1986 taxation year.

The effect of the re-enactment is to make those provisions apply as well to taxation years after 1986.

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Bill 63

1987

An Act to amend the Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2b of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 40, section 1, is amended by striking out “but for section 120.1 of the Federal Act” in the fifth and sixth lines.

2. Clause 3 (8) (a) of the said Act is amended by inserting after “126 (1)” in the fifth line “or subsection 180.1 (1.1)”.

3. Subsection 6 (3) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 13, section 2, is repealed and the following substituted therefor:

(3) This section does not apply to an individual for a taxation year for which the individual’s tax payable under Part I of the Federal Act is determined under DIVISION E.1 of that Part.

Non-application of section

4.—(1) Subclause 7 (1) (f) (vii) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 13, section 3, is repealed.

(2) Clauses 7 (1) (g), (h), (i) and (j) of the said Act are repealed and the following substituted therefor:

(g) “recorded agent” means a person on record with the Commission on Election Finances as being authorized to accept contributions on behalf of a political party, constituency association or candidate registered under the *Election Finances Act*, 1986;

1986, c. 33

(h) “registered candidate” with respect to an election of a member or members to serve in the Assembly, means a person who has been registered as a candidate for such election by the Commission on Elec-

tion Finances and whose name has not been deleted from the register of candidates maintained by the Commission with respect to such election;

- (i) “registered constituency association” means a registered constituency association within the meaning given to that expression by the *Election Finances Act, 1986*;
- (j) “registered party” means a registered party within the meaning given to that expression by the *Election Finances Act, 1986*.

1986, c. 33

(3) Subclause 7 (2) (a) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 13, section 3, is amended by striking out “\$180” in the second line and inserting in lieu thereof “\$230”.

(4) Subclause 7 (2) (b) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 13, section 3, is amended by striking out “(v) or (vii)” in the fourth line and inserting in lieu thereof “or (v)”.

5. Subsection 12 (3) of the *Income Tax Amendment Act, 1985*, being chapter 12 of the Statutes of Ontario, 1985, is repealed and the following substituted therefor:

Commencement
and
application

(3) Section 1 and subsection 2 (3) come into force on the 1st day of January, 1986 and apply to the 1986 and subsequent taxation years.

Commence-
ment

6.—(1) This Act, except sections 1, 2 and 3, subsections 4 (1), (3) and (4) and section 5, comes into force on the day it receives Royal Assent.

Idem

(2) Section 2 shall be deemed to have come into force on the 1st day of January, 1987, and applies to the 1987 and subsequent taxation years.

Idem

(3) Sections 1 and 3 and subsections 4 (1), (3) and (4) shall be deemed to have come into force on the 1st day of January, 1987.

Idem

(4) Section 5 shall be deemed to have come into force on the 1st day of January, 1986.

Short title

7. The short title of this Act is the *Income Tax Amendment Act, 1987*.

Bill 63

(Chapter 27
Statutes of Ontario, 1987)



An Act to amend the Income Tax Act

The Hon. R. Nixon
Minister of Revenue

<i>1st Reading</i>	May 20th, 1987
<i>2nd Reading</i>	June 4th, 1987
<i>3rd Reading</i>	June 15th, 1987
<i>Royal Assent</i>	June 29th, 1987

Bill 63

1987

– An Act to amend the Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2b of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 40, section 1, is amended by striking out “but for section 120.1 of the Federal Act” in the fifth and sixth lines.

2. Clause 3 (8) (a) of the said Act is amended by inserting after “126 (1)” in the fifth line “or subsection 180.1 (1.1)”.

3. Subsection 6 (3) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 13, section 2, is repealed and the following substituted therefor:

(3) This section does not apply to an individual for a taxation year for which the individual’s tax payable under Part I of the Federal Act is determined under DIVISION E.1 of that Part.

Non-
application of
section

4.—(1) Subclause 7 (1) (f) (vii) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 13, section 3, is repealed.

(2) Clauses 7 (1) (g), (h), (i) and (j) of the said Act are repealed and the following substituted therefor:

(g) “recorded agent” means a person on record with the Commission on Election Finances as being authorized to accept contributions on behalf of a political party, constituency association or candidate registered under the *Election Finances Act, 1986*;

1986, c. 33

(h) “registered candidate” with respect to an election of a member or members to serve in the Assembly, means a person who has been registered as a candidate for such election by the Commission on Elec-

tion Finances and whose name has not been deleted from the register of candidates maintained by the Commission with respect to such election;

1986, c. 33

- (i) “registered constituency association” means a registered constituency association within the meaning given to that expression by the *Election Finances Act, 1986*;
- (j) “registered party” means a registered party within the meaning given to that expression by the *Election Finances Act, 1986*.

(3) Subclause 7 (2) (a) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 13, section 3, is amended by striking out “\$180” in the second line and inserting in lieu thereof “\$230”.

(4) Subclause 7 (2) (b) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 13, section 3, is amended by striking out “(v) or (vii)” in the fourth line and inserting in lieu thereof “or (v)”.

5. Subsection 12 (3) of the *Income Tax Amendment Act, 1985*, being chapter 12 of the Statutes of Ontario, 1985, is repealed and the following substituted therefor:

Commencement
and
application

(3) Section 1 and subsection 2 (3) come into force on the 1st day of January, 1986 and apply to the 1986 and subsequent taxation years.

Commence-
ment

6.—(1) This Act, except sections 1, 2 and 3, subsections 4 (1), (3) and (4) and section 5, comes into force on the day it receives Royal Assent.

Idem

(2) Section 2 shall be deemed to have come into force on the 1st day of January, 1987, and applies to the 1987 and subsequent taxation years.

Idem

(3) Sections 1 and 3 and subsections 4 (1), (3) and (4) shall be deemed to have come into force on the 1st day of January, 1987.

Idem

(4) Section 5 shall be deemed to have come into force on the 1st day of January, 1986.

Short title

7. The short title of this Act is the *Income Tax Amendment Act, 1987*.

Bill 64

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

The Hon. R. Nixon

Treasurer of Ontario and Minister of Economics



1st Reading May 20th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to provide authority for borrowing moneys for the Consolidated Revenue Fund. The principal borrowings authorized under the *Ontario Loan Act* in recent years have been from the following sources:

1. Canada Pension Plan
2. Teachers' Superannuation Fund
3. The public capital market

The amount of \$1,600,000,000 authorized by the Bill is intended to cover borrowing primarily from the first two listed sources.

The Bill provides that any unused borrowing authority will expire on September 30th, 1988.

Bill 64

1987

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$1,600,000,000.

Loans up to
\$1,600,000,000

R.S.O. 1980,
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act, 1983* and to the Ontario Municipal Employees Retirement Fund under authority of the *Ontario Municipal Employees Retirement System Act*, but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

1983, c. 84

R.S.O. 1980,
c. 348

2. No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made prior to the 30th day of September, 1988.

Limitation

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Ontario Loan Act*, 1987.

Short title

Bill 65

An Act to regulate Prepaid Services

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations



1st Reading May 21st, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to regulate the provisions of health, fitness and related services where the services are prepaid.

The main provisions of the Bill are as follows:

1. The Act does not apply unless there is to be prepayment of services. Section 2 sets out situations where the Act does and does not apply.
2. Sections 4, 5 and 6 set out the form and contents of contracts.
3. The number of initiation fees that may be charged are restricted (section 7).
4. Instalment plans are to be available (section 8).
5. Provision is made for rescission (section 9).
6. Where facilities are not available, a trustee must be used to hold funds (section 13).

Bill 65**1987****An Act to regulate Prepaid Services**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“contract” means a contract for services to which this Act applies;

“customer” means a person who enters into, or is discussing with an operator the prospect of entering into, a contract;

“initiation fee” means a fee in addition to the annual membership fee;

“membership fee” means the amount payable by a customer for the use of services;

“operator” means a person who provides or offers to provide services;

“payment” includes an initiation fee;

“services” means facilities provided, for or instruction on,

- (a) health, fitness, modelling, talent development, diet or matters of a similar nature, or
- (b) in martial arts, sports, dance or similar activities.

2.—(1) This Act applies in respect of services or proposed services for which payment in advance is required. Application

(2) This Act does not apply in respect of services that are provided, Idem

- (a) on a non-profit or co-operative basis;
- (b) by a private club primarily owned by its members;

- (c) incidental to the main business of the operator;
- (d) by an operator funded or run by a charitable or municipal organization or by the Province of Ontario or any agency thereof;
- (e) for an amount less than that prescribed by regulation.

Idem

(3) This Act does not apply to a contract in force at the time this Act comes into force.

Contract
required

3.—(1) No operator shall require or accept advance payment for services from a customer with whom the operator does not have a written contract that meets the conditions set out in section 4.

Payments
repayable

(2) All payments received in contravention of subsection (1) are repayable to the person making the payments on demand by that person.

Information
in contract

4.—(1) A contract must set out;

- (a) the name and address of the operator and the customer;
- (b) a description of the services available to the customer that is sufficient to identify them with certainty;
- (c) the price list showing the cost of the various services provided;
- (d) the conditions upon which the contract may be renewed, cancelled or rescinded;
- (e) the instalment plans available to customers for the payment of membership and, where applicable, initiation fees together with an explanation of differences in cost to the customer of available plans; and
- (f) where any part of the services are not available at the time the contract is signed, the date that the services will be made available and the name and address of the person holding the trust funds pending availability.

Renewal of
contracts

(2) A contract that provides for renewal must also provide that it is not renewable if the customer notifies the operator in

writing, before the time for renewal, that the customer does not want to renew.

5. No contract may be made for a term longer than one year after the day that all the services are made available to the customer. Contracts for one year only

6.—(1) No contract may be made between two parties to an existing contract unless the subsequent contract is for services that are distinctly different from the services to be provided under the existing contract. Only one contract

(2) For the purposes of subsection (1), a different term or a different commencement date does not constitute a distinct difference in the services to be provided. Idem

7.—(1) No operator shall charge a customer more than one initiation fee. Initiation fee

(2) No operator shall charge an initiation fee that is greater than twice the annual membership fee. Idem

8. Every operator shall make available to customers at least one plan for instalment payments of membership and, where applicable, initiation fees whereby customers may make payments on a monthly basis. Instalment plans

9.—(1) Any customer may rescind a contract by delivering written notice of rescission to the operator within five days after the contract is signed or the services are available, whichever is the later. Rescission

(2) A customer who rescinds a contract is not liable for payment for services received or used up to the rescission and is entitled to a refund of any payment made pursuant to the contract. Idem

(3) A notice of rescission sent to an operator by registered mail shall be deemed to be delivered on the day that it is mailed. Idem

10. Every operator who owes a refund shall pay the refund within ten days, Refund

(a) after receiving notice of rescission or cancellation, as the case may be; or

(b) where subsection 13 (3) or (4) applies, after the day specified in the contract or the expiration of the last permission, whichever is the later.

Notice re
renewal

11.—(1) Where a contract provides for renewal and the operator does not deliver to the customer a notice reminding the customer of the provision required by subsection 4 (2), the provision for renewal does not apply.

Idem

(2) The notice under subsection (1) must be delivered at least thirty days before but not more than sixty days before the end of the contract.

Idem

(3) A notice under subsection (1) sent by registered mail to the customer at the last known address of the customer that the operator has shall be deemed to be delivered on the day that it is mailed.

Trust account

12. Every operator shall maintain a trust account designated by the name of the operator and the words “prepaid contract trust” at a bank, trust company, credit union or caisse populaire in which the operator shall place all funds received in respect of membership for a contract that may be rescinded under section 9.

Trustee

13.—(1) No operator shall receive payment from a customer for services that are not available at the time the payment is made except through a trust company incorporated under the *Loan and Trust Corporations Act* that has agreed to act as a trustee for the payment.

R.S.O. 1980,
c. 249

Exception

(2) Subsection (1) does not apply where one of the services that is not available is the use of the facility and the customer has agreed in writing to use another facility provided by the operator until the facility contracted for is available.

Facility not
available

(3) Where a facility is not available for use on the day specified in the contract, the trustee shall refund all payment received from the customer unless the customer agrees in writing to permit the trustee to retain the payment.

Extension

(4) No permission given under subsection (3) applies for longer than ninety days but a subsequent permission may be given on the expiration of a permission.

Duties of
trustee

(5) Where an operator has a trustee under subsection (1),

(a) any notice to the trustee shall be deemed to be notice to the operator as if the trustee were the operator; and

(b) any money payable by the operator is payable by the trustee to the extent that the trustee holds sufficient trust funds for that purpose.

(6) Every trustee under subsection (1) shall, upon receiving any payment from a customer, provide the customer with written confirmation of receipt of the payment and that the payment will be dealt with in accordance with this Act. Idem

(7) No trustee shall release to an operator funds received from a customer except in accordance with the trust agreement. Idem

14. A waiver by a customer of any provision of this Act is not valid. Waiver
invalid

15.—(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$2,000 and not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, or if such person is a corporation, to a fine of not more than \$50,000. Penalty

(2) Where a corporation is guilty of an offence under this Act or the regulations, every director or officer of the corporation who authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not less than \$2,000 and not more than \$25,000 or to imprisonment for a term of not more than one year, or to both. Idem

16. The Lieutenant Governor in Council may make regulations. Regulations

- (a) defining any word or expression used in this Act;
- (b) regulating the form of contracts including the size, type and colour of letters used therein;
- (c) governing advertisement by operators;
- (d) prescribing classes of operators;
- (e) exempting any class of operator from the application of this Act or the regulations or any provision of this Act or the regulations;
- (f) prescribing an amount for the purposes of clause 2 (2) (e);
- (g) governing trusts set up for purposes of subsection 13 (1) and prescribing terms of trust agreements.

Commence-
ment

17. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

18. The short title of this Act is the *Prepaid Services Act, 1987*.

ON

Government
Publications

Bill 66

Private Member's Bill

3RD SESSION, 33RD LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 66

An Act to amend the Public Hospitals Act

Ms Fish



1st Reading May 21st, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill applies to all cases where the consent of a patient is required by the Act or regulations or where the administrator or attending physician believes it should be obtained. It gives persons the right while they are mentally competent to appoint any representative to consent on their behalf in the event that they become not mentally competent for the purposes of consent. It provides a rank order for persons to consent on behalf of a patient or former patient who is under sixteen or not mentally competent, as follows:

1. The person appointed as the patient's committee.
2. The patient's representative.
3. The patient's married or common law spouse.
4. A child of the patient.
5. A parent of the patient or person with custody of the patient.
6. A brother or sister of the patient.
7. Another next of kin of the patient.

Persons are required to give or refuse consent on behalf of a patient on the basis of the patient's wishes, if known, and on the basis of the best interest of the patient otherwise.

Bill 66

1987

An Act to amend the Public Hospitals Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Public Hospitals Act*, being chapter 410 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

19a.—(1) In this section and in sections 19b and 19c,

Definitions

“mentally competent” means having the ability to understand the subject-matter in respect of which consent is requested and able to appreciate the consequences of giving or withholding consent;

“patient” includes an out-patient, a former patient and a former out-patient.

(2) Where this Act or the regulations provide that a consent in writing shall be obtained in respect of a patient, such consent shall be signed by,

Consent of patient

- (a) the patient where the patient has attained the age of sixteen years and is mentally competent to consent; or
- (b) the person authorized under section 19b to consent on the patient’s behalf where the patient has not attained the age of sixteen years or is not mentally competent.

(3) Where the attending physician or the administrator is of the opinion that a consent in writing should be obtained before a test or procedure is performed, such consent shall be signed by,

Idem

- (a) the patient where the patient has attained the age of sixteen years and is mentally competent to consent; or

- (b) the person authorized under section 19b to consent on the patient's behalf where the patient has not attained the age of sixteen years or is not mentally competent.

Substitute
consent

19b.—(1) Where this Act provides that a consent shall be signed by a person authorized under this section to consent on the patient's behalf, a person who has attained the age of sixteen years, is apparently mentally competent, is available and willing to give or refuse consent and is described in one of the following paragraphs may give or refuse consent on the patient's behalf:

R.S.O. 1980,
c. 264

1. The committee of the person appointed for the patient under the *Mental Incompetency Act*.
2. The patient's representative appointed under section 19c.
3. The person to whom the patient is married or the person of the opposite sex with whom the patient is living outside marriage in a conjugal relationship or was living outside marriage in a conjugal relationship immediately before being admitted to the hospital, if in the case of unmarried persons they,
 - i. have cohabited for at least one year,
 - ii. are together the parents of a child, or
 - iii. have together entered into a cohabitation agreement under section 53 of the *Family Law Act, 1986*.
4. A child of the patient.
5. A parent of the patient or a person who has lawful custody of the patient.
6. A brother or sister of the patient.
7. Any other next of kin of the patient.

1986. c. 4

Refusal

(2) If a person in a category in subsection (1) refuses consent on the patient's behalf, the consent of a person in a subsequent category is not valid.

Preference

(3) If two or more persons who are described in different paragraphs of subsection (1) claim the authority to give or refuse consent on behalf of a patient, the claim of the person

who is described in the paragraph occurring first in that subsection prevails.

(4) If two or more persons who are described in the same paragraph of subsection (1) claim the authority to give or refuse consent on behalf of a patient, if they disagree about whether to give or refuse consent and if their claims would prevail over any other claims under subsection (3), the refusal prevails.

Conflict

(5) A person described in paragraph 3, 4, 5, 6 or 7 of subsection (1) may not give or refuse consent on a patient's behalf unless the person makes a statement in writing certifying,

Consent by relative

- (a) the person's relationship to the patient;
- (b) that the person has been in personal contact with the patient over the preceding twelve month period;
- (c) that the person is willing to assume the responsibility for consent or refusing consent; and
- (d) that the person is not aware of any other person described in the same paragraph or in a previous paragraph who claims the authority to give or refuse consent.

(6) A person authorized to give or refuse consent on behalf of a patient shall do so in accordance with the wishes of the patient if the person knows that the patient expressed any such wishes when apparently mentally competent and at least sixteen years of age and in accordance with the best interests of the patient if the person does not know of any such wishes.

Basis for substitute consent

(7) A person who seeks another person's consent on a patient's behalf is entitled to rely on the accuracy of the other person's written statement under subsection (5), unless it is not reasonable to do so.

Reliance on statement

(8) A person seeking consent on behalf of a patient is not liable for failing to request the consent of another person entitled to give or refuse consent on behalf of the patient if, after reasonable inquiries, the person did not find the other person.

Reasonable inquiries

19c.—(1) A person who has attained the age of sixteen years and is mentally competent to do so has the right to appoint a representative who has attained the age of sixteen years and is apparently mentally competent to give or refuse

Patient's representative

consent on behalf of the person for the purpose of paragraph 2 of subsection 19b (1).

Appointment
in writing

(2) An appointment of a representative shall be made in writing in the presence of a witness.

Conditions

(3) An appointment may be subject to such conditions and restrictions, if any, as are contained in it and not inconsistent with this Act.

Notice by
physician

(4) A physician who admits a patient to a hospital shall promptly inform the patient in writing of the patient's right under subsection (1).

Transitional

(5) The administrator shall promptly inform all persons who are patients of the hospital at the time of the coming into force of this Act, other than former patients and former out-patients, in writing of their rights under subsection (1).

Contents of
notice

(6) The notice shall inform the patient of the powers and responsibilities of a representative under this Act.

Appointment
of represen-
tative

(7) If a patient gives or transmits to the administrator a statement in writing appointing a representative, the administrator shall transmit the statement to the representative forthwith.

Revocation

(8) A patient who has appointed a representative may revoke in writing the appointment and may appoint in writing a new representative while mentally competent to do so, and subsection (7) applies with necessary modifications in respect of the revocation and new appointment.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Public Hospitals Amendment Act, 1987*.

Bill 67

An Act respecting the Sale of Farm Machinery and Equipment in Ontario

Mr. Wildman



1st Reading May 21st, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to regulate the sale of farm machinery and equipment in Ontario. The Bill establishes The Farm Machinery and Equipment Board to carry out several tasks respecting the sale of farm machinery and equipment. The Board is given authority to investigate complaints and mediate disputes arising from the sale of farm machinery and equipment and may establish inventory guidelines for vendors and dealers of farm machinery and equipment. The Board may also make recommendations to the Minister concerning safety requirements and parts standardization for farm machinery and equipment.

Among the other principal features of the Bill are the following:

1. Dealers are required to provide certain emergency repair parts on seventy-two hours notice. (s. 6)
2. Where a dealer fails to make repair parts available within the times required by the Bill, the dealer is liable to pay to the purchaser an amount equal to one-half the normal rental rate for the farm machinery and equipment. (s. 7)
3. The Bill sets out warranties applicable to the sale of farm machinery and equipment. (s. 8)

Bill 67**1987**

**An Act respecting the
Sale of Farm Machinery and Equipment in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“Board” means The Farm Machinery and Equipment Board;

“dealer” means a person operating a retail establishment or business for the sale of new farm machinery and equipment and repair parts and providing repair services for farm machinery and equipment;

“farm machinery and equipment” means any farm machine or farm equipment,

- (a) the retail selling price of which is \$350 or more, and
- (b) that is used or intended for use in any type of farming operations,

but does not include a passenger automobile, a farm truck, jeep, snowmobile or all-terrain vehicle;

“Minister” means the Minister of Agriculture and Food;

“part” or “repair part” means a part used or to be used in the repair of farm machinery and equipment;

“vendor” means a manufacturer or supplier of farm machinery and equipment or repair parts who sells, consigns or delivers farm machinery and equipment or repair parts to a person for eventual sale by a dealer.

2. This Act does not apply to the sale of farm machinery and equipment, Application

- (a) by farmers by auction or in the ordinary course of their farming operations; or
- (b) by an executor or administrator of an estate or by a public official acting under judicial process; or
- (c) to a dealer.

Composition
of Board

3.—(1) A Board to be known as The Farm Machinery and Equipment Board is hereby established and shall be composed of such members appointed by the Lieutenant Governor in Council as the Lieutenant Governor in Council may consider necessary.

Chairman
and vice-
chairman

(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board.

Acting
chairman

(3) If, for any reason, there is no chairman or vice-chairman at a meeting, the members of the Board present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.

Term of
office

(4) Members of the Board shall hold office during pleasure.

Expert
assistance

(5) The Board may appoint from time to time one or more persons having technical or special knowledge of any matter to inquire into and report to the Board and to assist the Board in any capacity in respect of any matter before it.

Exercise of
powers

(6) The powers of the Board shall be exercised by resolution and the Board may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Board and generally dealing with the carrying out of its function.

Duties

(7) The Board shall perform such duties as are assigned to it by or under this and any other Act and shall administer and enforce this Act and the regulations.

Powers of
Board

(8) The Board may,

- (a) receive and investigate complaints made to it concerning farm machinery and equipment;
- (b) mediate disputes between purchasers and vendors or dealers of farm machinery and equipment arising from the sale of farm machinery and equipment;

- (c) take such action as may be necessary to reduce or correct unreasonable delays in the delivery of repair parts and unreasonable charges for them or recommend to the Minister appropriate action to alleviate such problems;
- (d) make recommendations to the Minister respecting
 - standardization of parts for farm machinery and equipment;
- (e) make recommendations to the Minister with respect to safety requirements for farm machinery and equipment; and
- (f) establish inventory guidelines for vendors and dealers of farm machinery and equipment.

4.—(1) Every vendor who sells or offers for sale farm machinery and equipment or repair parts in Ontario shall file with the Board, at least once in every twelve month period, all retail price lists with respect to the farm machinery and equipment or repair parts.

Filing of
retail price
lists

(2) Every vendor shall file together with the retail price list a list showing the names and addresses of all of the vendor's dealers in Ontario.

Names and
addresses of
dealers

5.—(1) A dealer who sells new farm machinery and equipment to a purchaser shall ensure that repair parts for the farm machinery and equipment shall be available for a period of ten years from the date of the purchase and, where within that period a person orders repair parts for the farm machinery and equipment purchased from the dealer, the dealer shall ensure that those repair parts are available to the person within fourteen days from the date of the order, unless delivery of the parts cannot be made within that time because of strikes or other conditions beyond the control of the dealer.

Repair parts
to be
available

(2) Subsection (1) applies with necessary modifications to the vendor who sells, consigns or delivers the new farm machinery and equipment to the dealer for resale.

Idem

6.—(1) Every contract for the purchase of new,

Emergency
repair parts

- (a) seeding;
- (b) haying;
- (c) harvesting; or

(d) milking,

machinery and equipment, shall include a provision to enable the purchaser to order emergency repair parts from the dealer at any time between the hours of 7 o'clock in the morning and 11 o'clock in the evening of any day except Sunday when the machinery and equipment is reasonably required for use.

Posting of
procedure by
dealer

(2) The method or procedure for ordering emergency repair parts shall be clearly set out in the contract of purchase.

When
emergency
service shall
be used

(3) The emergency repair service shall be used by the purchaser only when the farm machinery and equipment breaks down at a time when it is reasonably required and cannot be operated to perform the intended functional requirements set out in the contract of purchase, with reasonable efficiency.

Notice to
dealer

(4) A purchaser who orders repair parts shall notify the dealer if the parts are required for emergency repairs and the dealer shall in turn so notify the vendor if the dealer does not have those parts.

Time for
supplying
emergency
repair parts

(5) A dealer who is notified of the need for emergency repair parts shall ensure that those parts are available at the dealer's place of business to the purchaser within seventy-two hours from the time of the making of the order unless delivery of the parts cannot be made within that time because of strikes or conditions beyond the control of the dealer or vendor.

Idem

(6) Saturdays, Sundays and holidays shall not be included in calculating time under subsection (5).

Idem

(7) A vendor who is notified of the need for emergency repair parts shall ensure the parts are supplied to the dealer's place of business within the time period specified in subsection (5).

Price of
emergency
repair parts

(8) The price for emergency repair parts shall not exceed the price as set out in the retail list price except that the dealer or the vendor may add a service charge not exceeding \$15.

Definition

7.—(1) In this section, “prescribed rental rate” means the rental rate prescribed by the regulations as applicable for the farm machinery and equipment.

Payment for
delay in
delivering
repair parts

(2) Where a dealer from whom a purchaser orders repair parts fails to obtain those parts within the times specified in section 5 or 6, the dealer shall pay to the purchaser an amount

equal to one-half the prescribed rental rate from the date of the expiry of the time limit for delivery to the date on which the repair parts are made available to the purchaser at the dealer's place of business.

(3) The payment under subsection (2) shall be made only for the time during which the farm machinery and equipment would normally have been used. Payment for normal use

(4) In lieu of making payment, the dealer may supply the purchaser with other farm machinery and equipment that is suitable and capable of functioning properly and when the dealer does so it shall be supplied at one-half the prescribed rental rate. Alternative to payment

8.—(1) All farm machinery and equipment sold by a dealer shall carry a warranty against defects in parts, material and workmanship, Warranty

- (a) with respect to a tractor, for a minimum of 1,000 hours of use;
- (b) with respect to a self-propelled combine, for a minimum of 300 hours of use; and
- (c) for all other farm machinery and equipment, for at least one year,

and the warranty shall include the costs of defective parts, labour and transportation.

(2) In addition to the warranties set out in subsection (1), every new tractor and every new self-propelled combine sold by a dealer, with respect to the engine, transmission and differential or engine and power train, shall carry with it a warranty with respect to parts, labour and transportation on a *pro rata* basis, for an additional 2,000 hours of use for a tractor and 400 hours of use for a self-propelled combine, but in any case the total warranty period shall not extend beyond five years from the date of the original purchase. Additional warranty

(3) Where, during the warranty period, parts in farm machinery and equipment are found to be defective, the dealer or the vendor, as the case may be, shall replace those parts promptly and, where a defective part causes damage to any other part, the damaged part shall likewise be replaced by the dealer or vendor. Replacement of defective parts

Warranty on parts

(4) Where parts are replaced by a dealer or vendor under subsection (3), the new parts are subject to warranty for a minimum of one year from the date of replacement.

Non-application of warranty

(5) The warranties set out in this section do not apply,

- (a) where the deterioration of parts is due to normal wear and tear; or
- (b) to any failure of farm machinery and equipment to perform satisfactorily its intended functions where the failure is caused by the negligence of the purchaser or operator thereof.

Liability under warranty

9.—(1) Where a person purchases new farm machinery and equipment,

- (a) the manufacturer; and
- (b) the dealer or vendor who sold it to the purchaser,

are jointly and severally liable to observe, keep and perform every warranty set out in this Act.

Reimbursement by vendor

(2) Where the fault for the late delivery of parts for farm machinery and equipment is the fault of the vendor and not of the dealer, the vendor shall reimburse the dealer for any payment made by the dealer or liability incurred by the dealer under section 7.

Offence

10.—(1) Every person who knowingly contravenes any provision of this Act or the regulations and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$3,000.

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Regulations

11. Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) requiring the filing of such information and returns with the Board as the Board considers necessary to carry out the purposes of this Act;
- (b) prescribing rental rates for the purpose of section 7;

- (c) providing forms for the purpose of this Act and providing for their use.

12. This Act comes into force on the day it receives Royal Assent. Commence-
ment

13. The short title of this Act is the *Farm Machinery and Equipment Act, 1987*. Short title

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Bill 68

An Act to postpone the Commencement Date of certain Provisions of the Mental Health Act

The Hon. M. Elston
Minister of Health



1st Reading May 21st, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Subsection 33 (53) of the Act is an amendment to the *Mental Health Act* limiting the circumstances under which a physician who is unable to obtain consent to treatment of a patient in a psychiatric facility may apply to a review board for an order for treatment of that patient. Bill 190, introduced on January 28th, 1987, would repeal subsection 33 (53) and replace it with a number of provisions explained in that Bill. The purpose of this Bill is to delay the commencement of subsection 33 (53) from June 1st, 1987 until January 1st, 1988 so that Bill 190 can be considered before subsection 33 (53) comes into effect.

Bill 68**1987****An Act to postpone the Commencement Date of
certain Provisions of the Mental Health Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 70 (4) of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64, as amended by the Statutes of Ontario, 1987, chapter 14, section 1, is repealed and the following substituted therefor:

(4) Subsection 33 (53) comes into force on the 1st day of January, 1988.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Mental Health Statute Law Amendment Act, 1987*. Short title

Bill 69

An Act to amend the Game and Fish Act

Mr. Bernier



1st Reading May 21st, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is twofold.

First, it will enshrine in legislation the establishment of a publicly appointed "Fish Advisory Council".

The Council would have the powers to advise the Ministry in its fish management program and would oversee the development and administration of an enhanced fish management program, which follows a statement made by the Minister that "most" of the funds raised through the sale of the new Ontario Resident Fishing licences would be used for such a program.

The amendment will guarantee the anglers of Ontario that these new funds, expected to total around \$10 million, will indeed be spent on fish management.

Second, it will provide for a system of permanent identification numbers for resident hunters by requiring residents to obtain a Resident Hunter Number Card before being issued a licence under the *Game and Fish Act*.

It will put into place the following requirements:

1. To provide hunter identification and proof that licence applicants meet licensing requirements.
2. To reduce the cost of key entry services for all computerized data systems that incorporate hunter identification.
3. To provide a complete, up-to-date mailing list of all licensed hunters for annual harvest surveys.
4. To provide a key link between data systems relating to hunter effort and harvest.
5. To provide enforcement staff with licensing information on individual sportsmen.

Bill 69

1987

- An Act to amend the Game and Fish Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Game and Fish Act*, being chapter 182 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

16a.—(1) In this section, “Council” means the Fish Advisory Council. Definition

(2) There shall be established a Fish Advisory Council, to be composed of no fewer than six and no more than twelve members. Fish
Advisory
Council

(3) The members of the Council shall be appointed by the Lieutenant Governor in Council for such term as the Lieutenant Governor in Council determines and shall be representative of persons from each of the regions of Ontario. Members

(4) The members of the Council shall elect from among its members one person to be presiding officer and another person to be deputy presiding officer. Presiding
officer

(5) The remuneration and expenses of the members of the Council shall be determined by the Lieutenant Governor in Council and shall be paid out of the moneys appropriated therefor by the Legislature. Remunera-
tion and
expenses

(6) The Council may make rules and pass resolutions governing its procedure, including the calling of meetings, the establishment of a quorum and the conduct of meetings. Powers of
Council

(7) It is the function of the Council and it has power to advise the Ministry in its fish management program and to oversee the development and administration of an enhanced fish management program. Idem

Annual
report

(8) The Council shall file annually with the Minister a report upon its affairs for the preceding year.

Idem

(9) The Minister shall submit the report to the Lieutenant Governor in Council who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Resident
Hunter
Number Card

36a.—(1) No person shall issue a licence to a resident under this Act unless the resident has applied to the Ministry for and received a Resident Hunter Number Card.

Idem

(2) The Ministry shall issue a Resident Hunter Number Card to every resident who applies therefor as prescribed, who, apart from this section, is eligible to receive a licence under this Act and who,

- (a) has successfully completed a hunter training course approved by the regulations; or
- (b) has previously held a licence under this Act.

2. Section 92 of the said Act is amended by adding thereto the following paragraphs:

- 55a. governing the issue, form, renewal and replacement of Resident Hunter Number Cards and prescribing their durations and the fees payable therefor;
- 55b. respecting the establishment and requirements of hunter training courses for the purpose of section 36a and respecting the terms and conditions upon which hunter training courses not given under the authority of this Act shall be approved.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Game and Fish Amendment Act, 1987*.

Bill 70

An Act to provide for the Appointment of Persons Authorized to make Funeral Arrangements

Ms Fish



1st Reading May 21st, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides a mechanism whereby a person may appoint a representative who will be responsible for making funeral arrangements in the event of the person's death. The representative is entitled to have reasonable funeral expenses paid by the person's estate.

Bill 70

1987

**An Act to provide for the Appointment of
Persons Authorized to make Funeral Arrangements**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) A person may appoint a representative to be responsible for making funeral arrangements in the event of the death of the person. Appointment

(2) An appointment is valid only if it is in writing and signed by the person. Form of appointment

(3) An appointment is revoked only by, Revocation

(a) a subsequent appointment made in accordance with subsection (2);

(b) a written revocation, signed by the person; or

(c) burning, tearing or otherwise destroying it by the person or by some other person in the person's presence and by the person's direction with the intention of revoking it.

2.—(1) Upon the death of the person, a representative who presents evidence of a valid appointment has the sole authority to make funeral arrangements for the deceased person. Effect of appointment

(2) Despite any other Act or law, subsection (1) applies where the person makes a will after an appointment is made under this Act unless the will specifically provides otherwise. Idem

3. A representative appointed under this Act is entitled to be paid reasonable funeral expenses by the estate of the person. Funeral expenses

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Funeral Arrangements Act, 1987*.

Bill 72

An Act to amend the Highway Traffic Act

Mrs. Grier

1st Reading May 25th, 1987

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to aid in the enforcement of the rules of the road as they apply to bicyclists. It adds the requirement that bicyclists provide identifying information to police officers who request it. The Act provides that if they do not provide the information, they can be arrested.

Bill 72

1987

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 39 of subsection 1 (1) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 63, section 1, is further amended by inserting after “machine” in the second line “bicycle”.

2. Subsection 19 (2) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 8, is repealed and the following substituted therefor:

(2) Every person who is unable or refuses to surrender his or her licence in accordance with subsection (1) and every driver of a vehicle propelled or driven by muscular power shall, when requested by a constable, give reasonable identification of himself or herself and, for the purposes of this subsection, the correct name and address of such person shall be deemed to be reasonable identification. Identification

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Highway Traffic Amendment Act, 1987*. Short title

Bill 73

An Act to amend the Consumer Reporting Act

The Hon. M. Kwinter

Minister of Consumer and Commercial Relations

1st Reading May 26th, 1987

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

The Act provides that where information about a consumer is requested from or given by a consumer reporting agency, the consumer is entitled, in certain circumstances, to be given notice of the fact.

The proposed section 10a is intended to clarify that notice is to be given in all situations wherein there is a business interest. Subsection 10 (2) is rewritten to clarify a technical point. Currently, under subsection 10 (3), when a person does a credit check, he or she is required to give the consumer notice when an application for credit is made. The rewritten subsection covers the situation when a credit check is done in anticipation of offering credit to a consumer.

The Act currently does not require notice to be given in circumstances set out in subsections 8 (1) (pursuant to court orders, written instructions, etc.) and 8 (3) (limited information to government agencies and the police). These exceptions to the extent that they do not refer to business interests continue to apply for the clarification provision.

Section 11 of the Act sets out information that consumer reporting agencies must provide to consumers. The clause being added to subsection 11 (1) of the Act is an addition to the information to be provided to consumers.

Bill 73

1987

An Act to amend the Consumer Reporting Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 10 (2) of the *Consumer Reporting Act*, being chapter 89 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (2) No person shall request or obtain a consumer report, Notice of
intention to
get consumer
report
- (a) containing personal information about a consumer;
or
- (b) on the basis that the person is considering extending credit to a consumer who has not, at the time of the request, made application for credit,

unless that person first gives written notice of the fact to the consumer and, where the consumer so requests, informs the consumer of the name and address of the consumer reporting agency supplying the report.

2. The said Act is amended by adding thereto the following section:

- 10a.**—(1) No person shall, Supplying list
of names
- (a) supply a list of names and criteria to a consumer reporting agency in order to obtain an indication of the names of the persons named in the list who meet the criteria; or
- (b) in any way other than as described in clause (a), obtain information about a consumer from a consumer reporting agency,

without first notifying in writing each person named on the list or about whom information is being obtained that such a list is being submitted or that information is being requested and,

where any person affected so requests, informing that person of the name and address of the agency involved.

Exception
where
compliance
with
subs. 10 (3)

(2) Clause (1) (b) does not apply to a person obtaining information about a consumer under subsection 10 (3) where the person has complied with subsection 10 (3).

Restriction
on consumer
reporting
agency

(3) No consumer reporting agency shall provide information about any person entitled to be notified under subsection (1) or subsection 10 (2) unless the agency has reasonable grounds to believe that the person requesting the information is not in contravention of subsection (1) or 10 (2), as the case may be.

Supplying list
of criteria

(4) No consumer reporting agency that receives,

- (a) a list of criteria and a request to provide the names of persons who meet the criteria; or
- (b) a request for names of persons so that information may be inferred about those persons,

shall provide the name of any person without first notifying that person in writing of the request and the name and address of the person making the request.

Non-
application

(5) This section does not apply where information is requested or provided for the purposes referred to in clause 8 (1) (a), (b) or (c) or in the circumstances set out in subsection 8 (3).

3. Subsection 11 (1) of the said Act is amended by adding thereto the following clause:

- (ba) the name and address of every person on whose behalf the file has been accessed.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Consumer Reporting Amendment Act, 1987*.

Bill 74

An Act to proclaim Martin Luther King Jr. Day

Mr. Shymko

1st Reading May 26th, 1987
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

Bill 74

1987

An Act to proclaim Martin Luther King Jr. Day

Whereas Dr. Martin Luther King Jr. made major contributions to the civil rights movement in the United States; and whereas those contributions have been of great benefit to people of all races not just in the United States but in many other countries of the world including Canada; and whereas black persons have made significant contributions to Ontario and its culture; and whereas it is desirable to recognize the contributions of black persons to Ontario and to encourage respect for the civil rights of all persons in Ontario;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** The third Monday of January in each year is proclaimed to be Martin Luther King Jr. Day.
- 2.** This Act comes into force on the day it receives Royal Assent.
- 3.** The short title of this Act is the *Martin Luther King Jr. Day Act, 1987*.

Martin
Luther
King
Jr. DayCommence-
ment

Short title

Bill 75

**An Act to provide an Opportunity for the Electorate
to express its views by means of Referenda in Ontario**

Mr. Runciman

1st Reading May 26th, 1987
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The Bill provides for the holding of a referendum on any question that is within the jurisdiction of the Province to legislate. Such referenda would be held at the time of a general provincial election, on the petition of persons representing 8 per cent of the persons who voted in the last provincial general election. A mechanism is provided for ensuring that questions are within the jurisdiction of the Province. The Government is required to table the results of the referendum and to indicate to the Assembly how it intends to respond to those results.

Bill 75

1987

An Act to provide an Opportunity for the Electorate to express its views by means of Referenda in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Definitions

“ballot” means a ballot used for the conduct of an election under the *Election Act, 1984*;

1984, c. 54

“Court” means the Divisional Court;

“elector” means a person who is entitled under the *Election Act, 1984* to vote at an election to the Assembly;

“general election” means an election of members to serve in the Assembly in respect of which election writs are issued for all electoral districts;

“prescribed” means prescribed by the Lieutenant Governor in Council.

2. A referendum may be held in any general election concerning any matter within the legislative authority of the Province of Ontario under the circumstances and in the manner provided for by this Act.

Referendum
may be held

3. Subject to section 4, whenever a petition requiring that a referendum be held concerning a question is presented to the Chief Election Officer, the Chief Election Officer shall place that question on the ballot for the next general election.

Electors
requiring
referendum

4.—(1) A question shall not be placed on a ballot unless the Attorney General or the Court has certified that the question concerns a matter over which the Assembly has jurisdiction to legislate.

Provincial
matter

Form of
question

(2) A question shall be in a form that can be answered by “yes” or “no”.

Signatures on
petition

(3) A question shall not be placed on a ballot unless the petition contains the signatures of a number of electors equal to 8 per cent of the electors who voted in the last general election.

Idem

(4) A signature shall not be counted under subsection (3) unless the question appears on the paper containing the signature.

Questions on
ballot

(5) The Chief Election Officer shall place the question on the ballot in the exact words that appear on the petition and in the prescribed form.

Time of
receipt of
question
1984, c. 54

(6) The Chief Election Officer shall not place a question on the ballot unless it is received before the time prescribed by the *Election Act, 1984* for the close of nominations.

Question
submitted to
Attorney
General

5.—(1) A person wishing to require the holding of a referendum shall submit the question to the Attorney General for approval.

Attorney
General to
review
question

(2) The Attorney General shall determine whether the question concerns a matter over which the Assembly has jurisdiction to legislate and shall notify the person presenting the petition in writing of his or her determination within thirty days after receiving the petition.

Certificate

(3) Where the Attorney General determines that the question concerns a matter over which the Assembly has jurisdiction to legislate, the notice shall contain a certificate so stating.

Right of
review

(4) Where the Attorney General determines that the question concerns a matter over which the Assembly does not have jurisdiction to legislate, the notice shall so state and shall inform the person that the person within thirty days after the date of the notice may apply to the Court for a review of the Attorney General's determination.

Parties

6.—(1) Where an application is made to the Court under subsection 5 (4), the person making the application, the Attorney General and such other persons as the Court may permit are parties before it.

Certificate,
where
satisfied

(2) Where the Court determines that the question concerns a matter over which the Assembly has jurisdiction to legislate, the Court shall issue a certificate to the person so stating.

7. The results of the referendum shall be tabulated by the prescribed persons and in the prescribed manner. Tabulation of results

8.—(1) The Chief Election Officer shall make a report in the prescribed form to the Lieutenant Governor in Council of the results of the referendum within sixty days after the close of the official tabulation under the *Election Act, 1984*. Report to L.G. in C.
1984, c. 54

(2) The Lieutenant Governor in Council shall cause the report to be tabled forthwith after receiving it if the Assembly is in session and, if not, it shall be tabled within two weeks after the commencement of the next session. Report to be tabled

9.—(1) The Lieutenant Governor in Council shall cause a Government response to the results of the referendum to be tabled within sixty days after the report is tabled or, where the Assembly is not in session at the end of that sixty day period, within two weeks after the commencement of the next session. Response

(2) The response shall specify what, if anything, the Government intends to do in response to the results of the referendum. Idem

10. The Lieutenant Governor in Council may make regulations prescribing any matter referred to in this Act as prescribed by the regulations. Regulations

11. This Act comes into force on the day it receives Royal Assent. Commencement

12. The short title of this Act is the *Referendum Act, 1987*. Short title

Bill 76

An Act to amend the Labour Relations Act

Mr. Barlow

1st Reading May 27th, 1987

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. This section would require a secret ballot vote for certification of a trade union in all cases where the Board is satisfied that at least 45 per cent of the employees in the bargaining unit are members of a trade union. The Act now does not require a secret ballot and provides that the Board has discretion to decide whether or not to call a vote where it is satisfied that more than 55 per cent of the employees are members of the union.

SECTION 2. Subsection 72 (4) now reads as follows:

(4) A strike vote or a vote to ratify a proposed collective agreement taken by a trade union shall be by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed.

Bill 76

1987

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 7 (2) of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) If the Board is satisfied that not less than 45 per cent of the employees in the bargaining unit are members of the trade union, the Board shall direct that a representation vote be taken by secret ballot.

Represent-
tation vote

(2) Subsection 7 (3) of the said Act is amended by striking out “and in other cases, if the Board is satisfied that more than 55 per cent of the employees in the bargaining unit are members of the trade union” in the third, fourth and fifth lines.

2. Subsection 72 (4) of the said Act is repealed and the following substituted therefor:

(4) A trade union shall not call a strike or ratify a proposed collective agreement unless it has called a strike vote or a vote to ratify the proposed collective agreement, that vote has been held by secret ballot and a majority of those voting have supported the call to strike or the proposed collective agreement.

Strike or
ratification
vote

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Labour Relations Amendment Act, 1987*.

Short title

Bill 77

An Act to amend the Beef Cattle Marketing Act

The Hon. J. Riddell

Minister of Agriculture and Food



1st Reading May 28th, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The subsections proposed to be repealed provide for the refund of licence fees and read as follows:

(3) Every person who is the holder of a licence under this section may apply for a refund of any licence fees paid by him to an association.

(4) Every application for a refund shall be made in the manner prescribed in the regulations.

(5) Where an association receives an application for a refund, it shall refund the licence fees in the manner prescribed in the regulations and in any case not later than one year after receipt of the application therefor.

SECTION 2.—Subsection 1. The proposed new clause 5 (1) (da) empowers the Lieutenant Governor in Council to make regulations requiring the furnishing of information relating to the sale of cattle to the association designated under the Act (The Ontario Cattlemen's Association). New clause (db) authorizes the making of regulations to ensure the security and confidentiality of information so furnished.

Subsection 2. Clause 5 (1) (f) of the Act empowers the Lieutenant Governor in Council to make regulations prescribing the manner of making application for licence fee refunds and the manner of making those refunds. The repeal is complementary to the repeal of the provisions authorizing a refund set out in section 1 of the Bill.

SECTION 3. This transitional provision keeps in force the repealed provisions respecting licence fee refunds for the limited purpose of completing the processing of refund applications that are received by the association in respect of cattle sold on or before the day the amendments come into force.

Bill 77

1987

An Act to amend the Beef Cattle Marketing Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (3), (4) and (5) of the *Beef Cattle Marketing Act*, being chapter 41 of the Revised Statutes of Ontario, 1980, are repealed.

2.—(1) Subsection 5 (1) of the said Act is amended by adding thereto the following clauses:

(da) requiring any person who receives cattle from a seller thereof to furnish to an association information relating to the sale of the cattle, including the name of the seller, the number of head sold, the class of cattle and the sale price;

(db) governing the security and confidentiality of information referred to in clause (da).

(2) Clause 5 (1) (f) of the said Act is repealed.

3. Subsections 3 (3), (4) and (5) and the regulations made under clause 5 (1) (f) of the *Beef Cattle Marketing Act*, as those provisions read immediately before their repeal by section 1 and subsection 2 (2) of this Act, continue to apply in respect of an application for a refund of any licence fees paid by a person that is received by an association in respect of cattle sold before the day this Act comes into force.

Pending
applications
for refunds

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

5. The short title of this Act is the *Beef Cattle Marketing Amendment Act, 1987*.

Short title

Bill 77

*(Chapter 28
Statutes of Ontario, 1987)*

An Act to amend the Beef Cattle Marketing Act

The Hon. J. Riddell
Minister of Agriculture and Food

<i>1st Reading</i>	May 28th, 1987
<i>2nd Reading</i>	June 11th, 1987
<i>3rd Reading</i>	June 15th, 1987
<i>Royal Assent</i>	June 29th, 1987

Bill 77

1987

An Act to amend the Beef Cattle Marketing Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 3 (3), (4) and (5) of the *Beef Cattle Marketing Act*, being chapter 41 of the Revised Statutes of Ontario, 1980, are repealed.

2.—(1) Subsection 5 (1) of the said Act is amended by adding thereto the following clauses:

(da) requiring any person who receives cattle from a seller thereof to furnish to an association information relating to the sale of the cattle, including the name of the seller, the number of head sold, the class of cattle and the sale price;

(db) governing the security and confidentiality of information referred to in clause (da).

(2) Clause 5 (1) (f) of the said Act is repealed.

3. Subsections 3 (3), (4) and (5) and the regulations made under clause 5 (1) (f) of the *Beef Cattle Marketing Act*, as those provisions read immediately before their repeal by section 1 and subsection 2 (2) of this Act, continue to apply in respect of an application for a refund of any licence fees paid by a person that is received by an association in respect of cattle sold before the day this Act comes into force.

Pending
applications
for refunds

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

5. The short title of this Act is the *Beef Cattle Marketing Amendment Act, 1987*.

Short title

Bill 78

An Act to amend the Mental Health Act

The Hon. M. Elston
Minister of Health



1st Reading June 1st, 1987
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to restore the status of the *Mental Health Act* to what it was before June 1st, 1987 for a period of time ending July 10, 1987, in order to give the Legislature time to consider Bill 190.

Bill 78

1987

An Act to amend the Mental Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 35 (4) (a) of the *Mental Health Act*, being chapter 262 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted therefor:

- (a) an involuntary patient or the nearest relative of an involuntary patient, as the case requires, refuses consent or an involuntary patient is not mentally competent and there is no relative of the patient from whom consent may be requested to the provision of a specific psychiatric treatment or a specific course of psychiatric treatment to the patient; and

.

(2) Clause 35 (4) (a) of the said Act, as re-enacted by subsection (1), is repealed and the following substituted therefor:

- (a) an involuntary patient is not mentally competent and there is no relative of the patient from whom consent may be requested to the provision of a specific psychiatric treatment or a specific course of psychiatric treatment of the patient; and

.

2.—(1) This Act, except subsection 1 (2), comes into force on the day it receives Royal Assent. Commence-
ment

(2) Subsection 1 (2) comes into force on the 10th day of July, 1987. Idem

3. The short title of this Act is the *Mental Health Amendment Act, 1987*. Short title

Bill 79

An Act to amend the Occupational Health and Safety Act

The Hon. W. Wrye
Minister of Labour

1st Reading June 8th, 1987
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The purpose of the Bill is to make it mandatory for employers to prepare inventories of hazardous materials and to provide information to their workers respecting hazardous materials and hazardous physical agents. Under the Bill, members of the public would also be entitled to inspect copies of hazardous materials inventories filed with medical officers of health.

Bill 79

1987

**An Act to amend the
Occupational Health and Safety Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Occupational Health and Safety Act*, being chapter 321 of the Revised Statutes of Ontario, 1980, as amended by the statutes of Ontario, 1986, chapter 64, section 44, is further amended by adding thereto the following paragraphs:

- 10a. “hazardous material” means a biological or chemical agent named or described in the regulations as a hazardous material;
- 10b. “hazardous physical agent” means a physical agent named or described in the regulations as a hazardous physical agent.

2. Subsection 14 (2) of the said Act is amended by adding thereto the following clause:

- (aa) in a medical emergency for the purpose of diagnosis or treatment, provide, upon request, information in the possession of the employer, including confidential business information, to a legally qualified medical practitioner and to such other persons as may be prescribed.

3. Part IV of the said Act is amended by adding thereto the following sections:

22a.—(1) An employer shall make or cause to be made and shall maintain an inventory of all hazardous materials that are present in the work place.

Hazardous
materials
inventory

(2) The inventory required by subsection (1),

Idem

- (a) shall contain such information as may be prescribed; and
- (b) shall be prepared in consultation with the committee or health and safety representative, if any, for the work place or with a worker selected by the workers to represent them, if there is no committee or health and safety representative.

Exception

(3) Except as may be prescribed, subsection (1) does not apply to an employer who undertakes to perform work or supply services on a project in respect of materials to be used on the project.

Identification of ingredients

(4) Where, under the regulations, an employer is required to identify or obtain the identity of the ingredients of a hazardous material, the employer is not in contravention of the regulations if the employer has made every effort reasonable in the circumstances to identify or obtain the identity of the ingredients.

Idem

(5) An employer shall advise a Director in writing if, after making reasonable efforts, the employer is unable to identify or obtain the identity of the ingredients of a hazardous material as required by the regulations.

Hazardous material, labels and data sheets**22b.—(1) An employer shall ensure that,**

- (a) every container present in the work place that contains hazardous material is and remains labelled in the prescribed manner;
- (b) an unexpired material safety data sheet, containing such information and in such form as may be prescribed, is obtained or prepared by the employer; and
- (c) labels and material safety data sheets required by clauses (a) and (b) are available in English and such other language or languages as may be prescribed.

Prohibition

(2) No person shall remove, alter or deface a label described in clause (1) (a) that is on a container.

Idem

(3) An employer shall ensure that a hazardous material is not used at a work place unless the prescribed requirements concerning labelling, material safety data sheets and worker instruction and training have been complied with.

(4) An employer shall advise a Director in writing if the employer, after making reasonable efforts, is unable to obtain a label or material safety data sheet required by subsection (1).

Notice to
Director

(5) A material safety data sheet expires three years after the date of its publication.

Expiry of
material
safety data
sheet

22c.—(1) A copy of the most recent version of the inventory and of every unexpired material safety data sheet required by this Part in respect of hazardous materials in a work place shall be,

Inventory
and material
safety data
sheets to be
made
available

- (a) made available by the employer in the work place in such a manner as to allow examination by the workers;
- (b) furnished by the employer to the committee or health and safety representative, if any, for the work place or to a worker selected by the workers to represent them, if there is no committee or health and safety representative;
- (c) furnished by the employer to the medical officer of health of the health unit in which the work place is located upon the request of the medical officer of health;
- (d) furnished by the employer to the fire department which serves the location in which the work place is located upon the request of the fire department; and
- (e) filed with a Director if so required by the regulations.

(2) The medical officer of health, at the request of any person, shall request an employer to furnish a copy of the most recent version of the inventory or of an unexpired material safety data sheet, as the case may be, and the medical officer of health shall make the copy available to the person for inspection.

Public access

(3) In addition to the requirements imposed under subsection (1), a copy of every material safety data sheet required by subsection (1) shall be made available by the employer in the work place in such a manner that it is readily accessible by all workers who may be exposed to the hazardous material to which it relates.

Additional
requirement

Assessment
for hazardous
materials

22d.—(1) Where so prescribed, an employer shall assess all biological and chemical agents produced in the work place for use therein to determine if they are hazardous materials.

Assessments
to be made
available

(2) The assessment required by subsection (1) shall be in writing and a copy of it shall be,

- (a) made available by the employer in the work place in such a manner as to allow examination by the workers;
- (b) furnished by the employer to the committee or health and safety representative, if any, for the work place or to a worker selected by the workers to represent them, if there is no committee or health and safety representative.

Confidential
business
information

22e.—(1) Where, but for this section, an employer would be required under this Part to disclose information that the employer considers to be confidential business information in an inventory, label or material safety data sheet, the employer may, in accordance with the regulations, file a claim with the claims board for an exemption from the requirements.

Determi-
nation of
claim

(2) The claims board, in accordance with its procedures, shall determine the validity of every claim filed under subsection (1).

Appeal

(3) The employer or any worker of the employer or any trade union representing the workers of the employer may, in accordance with the regulations, appeal a determination made under subsection (2).

Determi-
nation of
claim

(4) The claims board, in accordance with its procedures, shall determine every appeal under subsection (3).

Effect of
claim

(5) Information that an employer considers to be confidential business information is exempt from disclosure from the time a claim is filed under subsection (1) until the claim is finally determined and thereafter, if the claim is found to be valid.

Federal
agency

(6) Where the Parliament of Canada establishes an agency that has the power to determine whether information related to any hazardous material is confidential business information, the Lieutenant Governor in Council may by regulation name that agency as the claims board and adopt its procedures for the purposes of this section.

(7) In this section, “claims board” means an agency designated by the regulations as the claims board. Definition

22f.—(1) A person who distributes or supplies, directly or indirectly, or manufactures, produces or designs a thing for use in a work place that causes, emits or produces a hazardous physical agent when the thing is in use or operation shall ensure that such information as may be prescribed is readily available respecting the hazardous physical agent and the proper use or operation of the thing. Hazardous physical agents

(2) Where an employer has a thing described in subsection (1) in the work place, the employer shall ensure that the information referred to in that subsection has been obtained and is, Duty of employer

(a) made available in the work place for workers who use or operate the thing or who are likely to be exposed to the hazardous physical agent; and

(b) furnished by the employer to the committee or health and safety representative, if any, for the work place or a worker selected by the workers to represent them, if there is no committee or health and safety representative.

(3) An employer to whom subsection (2) applies shall post prominent notices identifying and warning of the hazardous physical agent in the part of the work place in which the thing is used or operated or is to be used or operated. Notices

(4) Notices required by subsection (3) shall contain such information as may be prescribed and shall be in English and such other language or languages as may be prescribed. Idem

22g.—(1) In addition to providing information and instruction to a worker as required by clause 14 (2) (a), an employer shall ensure that a worker exposed or likely to be exposed to a hazardous material or to a hazardous physical agent receives, and that the worker participates in, such instruction and training as may be prescribed. Instruction and training

(2) The instruction and training to be given under subsection (1) shall be developed by the employer in consultation with the committee or health and safety representative, if any, for the work place. Consultation

(3) An employer shall review, in consultation with the committee or health and safety representative, if any, for the work Review

place, the training and instruction provided to a worker and the worker's familiarity therewith at least annually.

Idem

(4) The review described in subsection (3) shall be held more frequently than annually, if,

- (a) the employer, on the advice of the committee or health and safety representative, if any, for the work place, determines that such reviews are necessary; or
- (b) there is a change in circumstances that may affect the health or safety of a worker.

4. Clause 28 (1) (l) of the said Act, exclusive of the sub-clauses, is repealed and the following substituted therefor:

- (l) require in writing, within such time as is specified, a person who is an employer, manufacturer, producer, importer, distributor or supplier to produce records or information, or to provide, at the expense of the person, a report or evaluation made or to be made by a person or organization having special, expert or professional knowledge or qualifications as are specified by the inspector of any process or biological, chemical or physical agents or combination of such agents present, used or intended for use in a work place and the manner of use, including,

.

5. Section 29 of the said Act is amended by adding thereto the following subsection:

Additional
orders

(4a) In addition to the orders that may be made under subsection (4), where an inspector makes an order under subsection (1) for a contravention of section 22b or 22f or a Director has been advised of an employer's inability to obtain an unexpired material safety data sheet, the inspector may order that the hazardous material shall not be used or that the thing that causes, emits or produces the hazardous physical agent not be used or operated until the order is withdrawn or cancelled.

6. Section 34 of the said Act is amended by adding thereto the following subsection:

Medical
emergencies

(4) Subsection (1) does not apply so as to prevent any person from providing any information in the possession of the person, including confidential business information, in a medical emergency for the purpose of diagnosis or treatment.

7. Subsection 41 (2) of the said Act is amended by striking out “and” at the end of paragraph 22 and by adding thereto the following paragraph:

- 24. prescribing by name or description any biological or chemical agent as a hazardous material and any physical agent as a hazardous physical agent.

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

9. The short title of this Act is the *Occupational Health and Safety Amendment Act, 1987*. Short title

Bill 79

An Act to amend the Occupational Health and Safety Act

The Hon. W. Wrye
Minister of Labour



<i>1st Reading</i>	June 8th, 1987
<i>2nd Reading</i>	June 22nd, 1987
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The purpose of the Bill is to make it mandatory for employers to prepare inventories of hazardous materials and to provide information to their workers respecting hazardous materials and hazardous physical agents. Under the Bill, members of the public would also be entitled to inspect copies of hazardous materials inventories filed with medical officers of health. The Bill also provides for the giving of information, including confidential business information, in medical emergencies.

Bill 79

1987

**An Act to amend the
Occupational Health and Safety Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Occupational Health and Safety Act*, being chapter 321 of the Revised Statutes of Ontario, 1980, as amended by the statutes of Ontario, 1986, chapter 64, section 44, is further amended by adding thereto the following paragraphs:

10a. “hazardous material” means a biological or chemical agent named or described in the regulations as a hazardous material;

10b. “hazardous physical agent” means a physical agent named or described in the regulations as a hazardous physical agent.

2. Subsection 14 (2) of the said Act is amended by adding thereto the following clause:

(aa) in a medical emergency for the purpose of diagnosis or treatment, provide, upon request, information in the possession of the employer, including confidential business information, to a legally qualified medical practitioner and to such other persons as may be prescribed.

3. Part IV of the said Act is amended by adding thereto the following sections:

22a.—(1) An employer shall make or cause to be made and shall maintain an inventory of all hazardous materials and all hazardous physical agents that are present in the work place.

Hazardous
materials
inventory

(2) The inventory required by subsection (1),

Idem

(a) shall contain such information as may be prescribed; and

(b) shall be prepared in consultation with the committee or health and safety representative, if any, for the work place or with a worker selected by the workers to represent them, if there is no committee or health and safety representative.

Idem

(3) Where an inventory required by subsection (1) is amended during a year, the employer, not later than the 1st day of February in the following year, shall prepare a revised version of the inventory incorporating all changes made during the preceding year.

Identification
of ingredients

(4) Where, under the regulations, an employer is required to identify or obtain the identity of the ingredients of a hazardous material, the employer is not in contravention of the regulations if the employer has made every effort reasonable in the circumstances to identify or obtain the identity of the ingredients.

Idem

(5) An employer shall advise a Director in writing if, after making reasonable efforts, the employer is unable to identify or obtain the identity of the ingredients of a hazardous material as required by the regulations.

Exception

(6) Except as may be prescribed, subsection (1) does not apply to an employer who undertakes to perform work or supply services on a project in respect of materials to be used on the project.

Floor plans

(7) The employer shall provide a Director and any other prescribed agencies with a floor plan of the work place showing the names of all hazardous materials and their location.

Hazardous
material,
labels and
data sheets

22b.—(1) An employer shall ensure that,

(a) every container present in the work place that contains hazardous material is and remains labelled in the prescribed manner;

(b) an unexpired material safety data sheet, containing such information and in such form as may be prescribed, is obtained or prepared by the employer; and

(c) labels and material safety data sheets required by clauses (a) and (b) are available in English and such other language or languages as may be prescribed.

(2) No person shall remove, alter or deface a label described in clause (1) (a) that is on a container. Prohibition

(3) An employer shall ensure that a hazardous material is not used at a work place unless the prescribed requirements concerning labelling, material safety data sheets and worker instruction and training have been complied with. Idem

(4) An employer shall advise a Director in writing if the employer, after making reasonable efforts, is unable to obtain a label or material safety data sheet required by subsection (1). Notice to Director

(5) A material safety data sheet expires three years after the date of its publication. Expiry of material safety data sheet

22c.—(1) A copy of the most recent version of the inventory and of every unexpired material safety data sheet required by this Part in respect of hazardous materials in a work place shall be, Inventory and material safety data sheets to be made available

(a) made available by the employer in the work place in such a manner as to allow examination by the workers;

(b) furnished by the employer to the committee or health and safety representative, if any, for the work place or to a worker selected by the workers to represent them, if there is no committee or health and safety representative;

➡ (c) furnished by the employer to the medical officer of health of the health unit in which the work place is located;

(d) furnished by the employer to the fire department which serves the location in which the work place is located; and


(e) filed by the employer with a Director.

(2) The medical officer of health, at the request of any person, shall request an employer to furnish a copy of the most recent version of the inventory or of an unexpired material safety data sheet, as the case may be. Public access

(3) At the request of any person, the medical officer of health shall make available to the person for inspection a copy of any inventory or material safety data sheet requested by Idem

the person and in the possession of the medical officer of health.

Idem


(4) A medical officer of health shall not disclose the name of any person who makes a request under subsection (2) or (3). 

Additional
requirement

(5) In addition to the requirements imposed under subsection (1), a copy of every material safety data sheet required by subsection (1) shall be made available by the employer in the work place in such a manner that it is readily accessible by all workers who may be exposed to the hazardous material to which it relates.



Time for
compliance

(6) The Lieutenant Governor in Council may by regulation establish dates by which employers in any industry or class of industry must provide inventories or inventories and material safety data sheets under clauses (1) (c), (d) and (e) and an employer to whom the regulation applies shall have until that date to comply with those clauses unless the medical officer of health, the fire department or a Director requests the employer to provide a copy of the most recent version of the inventory or of an unexpired material safety data sheet. 

Assessment
for hazardous
materials

22d.—(1) Where so prescribed, an employer shall assess all biological and chemical agents produced in the work place for use therein to determine if they are hazardous materials.

Assessments
to be made
available

(2) The assessment required by subsection (1) shall be in writing and a copy of it shall be,

- (a) made available by the employer in the work place in such a manner as to allow examination by the workers;
- (b) furnished by the employer to the committee or health and safety representative, if any, for the work place or to a worker selected by the workers to represent them, if there is no committee or health and safety representative.

Confidential
business
information

22e.—(1) Where, but for this section, an employer would be required under this Part to disclose information that the employer considers to be confidential business information in an inventory, label or material safety data sheet, the employer may, in accordance with the regulations, file a claim with the claims board for an exemption from the requirements.

(2) The claims board, in accordance with its procedures, shall determine the validity of every claim filed under subsection (1).

Determi-
nation of
claim

(3) The employer or any worker of the employer or any trade union representing the workers of the employer may, in accordance with the regulations, appeal a determination made under subsection (2).

Appeal

(4) The claims board, in accordance with its procedures, shall determine every appeal under subsection (3).

Determi-
nation of
claim

(5) Information that an employer considers to be confidential business information is exempt from disclosure from the time a claim is filed under subsection (1) until the claim is finally determined and thereafter, if the claim is found to be valid.

Effect of
claim

(6) Where the Parliament of Canada establishes an agency that has the power to determine whether information related to any hazardous material is confidential business information, the Lieutenant Governor in Council may by regulation name that agency as the claims board and adopt its procedures for the purposes of this section.

Federal
agency

(7) In this section, "claims board" means an agency designated by the regulations as the claims board.

Definition

22f.—(1) A person who distributes or supplies, directly or indirectly, or manufactures, produces or designs a thing for use in a work place that causes, emits or produces a hazardous physical agent when the thing is in use or operation shall ensure that such information as may be prescribed is readily available respecting the hazardous physical agent and the proper use or operation of the thing.

Hazardous
physical
agents

(2) Where an employer has a thing described in subsection (1) in the work place, the employer shall ensure that the information referred to in that subsection has been obtained and is,

Duty of
employer

- (a) made available in the work place for workers who use or operate the thing or who are likely to be exposed to the hazardous physical agent; and
- (b) furnished by the employer to the committee or health and safety representative, if any, for the work place or a worker selected by the workers to represent them, if there is no committee or health and safety representative.

Notices

(3) An employer to whom subsection (2) applies shall post prominent notices identifying and warning of the hazardous physical agent in the part of the work place in which the thing is used or operated or is to be used or operated.

Idem

(4) Notices required by subsection (3) shall contain such information as may be prescribed and shall be in English and such other language or languages as may be prescribed.

Instruction and training

22g.—(1) In addition to providing information and instruction to a worker as required by clause 14 (2) (a), an employer shall ensure that a worker exposed or likely to be exposed to a hazardous material or to a hazardous physical agent receives, and that the worker participates in, such instruction and training as may be prescribed.

Consultation

(2) The instruction and training to be given under subsection (1) shall be developed by the employer in consultation with the committee or health and safety representative, if any, for the work place.

Review

(3) An employer shall review, in consultation with the committee or health and safety representative, if any, for the work place, the training and instruction provided to a worker and the worker's familiarity therewith at least annually.

Idem

(4) The review described in subsection (3) shall be held more frequently than annually, if,

- (a) the employer, on the advice of the committee or health and safety representative, if any, for the work place, determines that such reviews are necessary; or
- (b) there is a change in circumstances that may affect the health or safety of a worker.

4. Clause 28 (1) (l) of the said Act, exclusive of the sub-clauses, is repealed and the following substituted therefor:

- (l) require in writing, within such time as is specified, a person who is an employer, manufacturer, producer, importer, distributor or supplier to produce records or information, or to provide, at the expense of the person, a report or evaluation made or to be made by a person or organization having special, expert or professional knowledge or qualifications as are specified by the inspector of any process or biological, chemical or physical agents or combina-

tion of such agents present, used or intended for use in a work place and the manner of use, including,

.

5. Section 29 of the said Act is amended by adding thereto the following subsection:

(4a) In addition to the orders that may be made under subsection (4), where an inspector makes an order under subsection (1) for a contravention of section 22b or 22f or a Director has been advised of an employer's inability to obtain an unexpired material safety data sheet, the inspector may order that the hazardous material shall not be used or that the thing that causes, emits or produces the hazardous physical agent not be used or operated until the order is withdrawn or cancelled.

Additional orders

6. Section 34 of the said Act is amended by adding thereto the following subsection:

(4) Subsection (1) does not apply so as to prevent any person from providing any information in the possession of the person, including confidential business information, in a medical emergency for the purpose of diagnosis or treatment.

Medical emergencies

7. Subsection 41 (2) of the said Act is amended by striking out "and" at the end of paragraph 22 and by adding thereto the following paragraph:

- 24. prescribing by name or description any biological or chemical agent as a hazardous material and any physical agent as a hazardous physical agent.

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commencement

9. The short title of this Act is the *Occupational Health and Safety Amendment Act, 1987*.

Short title

Bill 79

3RD SESSION, 33RD LEGISLATURE, ONTARIO

36 ELIZABETH II, 1987

Bill 79

(Chapter 29
Statutes of Ontario, 1987)



An Act to amend the Occupational Health and Safety Act

The Hon. W. Wrye
Minister of Labour

<i>1st Reading</i>	June 8th, 1987
<i>2nd Reading</i>	June 22nd, 1987
<i>3rd Reading</i>	June 25th, 1987
<i>Royal Assent</i>	June 29th, 1987

Bill 79

1987

**An Act to amend the
Occupational Health and Safety Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Occupational Health and Safety Act*, being chapter 321 of the Revised Statutes of Ontario, 1980, as amended by the statutes of Ontario, 1986, chapter 64, section 44, is further amended by adding thereto the following paragraphs:

10a. “hazardous material” means a biological or chemical agent named or described in the regulations as a hazardous material;

10b. “hazardous physical agent” means a physical agent named or described in the regulations as a hazardous physical agent.

2. Subsection 14 (2) of the said Act is amended by adding thereto the following clause:

(aa) in a medical emergency for the purpose of diagnosis or treatment, provide, upon request, information in the possession of the employer, including confidential business information, to a legally qualified medical practitioner and to such other persons as may be prescribed.

3. Part IV of the said Act is amended by adding thereto the following sections:

22a.—(1) An employer shall make or cause to be made and shall maintain an inventory of all hazardous materials and all hazardous physical agents that are present in the work place.

Hazardous
materials
inventory

(2) The inventory required by subsection (1),

Idem

- (a) shall contain such information as may be prescribed; and
- (b) shall be prepared in consultation with the committee or health and safety representative, if any, for the work place or with a worker selected by the workers to represent them, if there is no committee or health and safety representative.

Idem

(3) Where an inventory required by subsection (1) is amended during a year, the employer, not later than the 1st day of February in the following year, shall prepare a revised version of the inventory incorporating all changes made during the preceding year.

Identification
of ingredients

(4) Where, under the regulations, an employer is required to identify or obtain the identity of the ingredients of a hazardous material, the employer is not in contravention of the regulations if the employer has made every effort reasonable in the circumstances to identify or obtain the identity of the ingredients.

Idem

(5) An employer shall advise a Director in writing if, after making reasonable efforts, the employer is unable to identify or obtain the identity of the ingredients of a hazardous material as required by the regulations.

Exception

(6) Except as may be prescribed, subsection (1) does not apply to an employer who undertakes to perform work or supply services on a project in respect of materials to be used on the project.

Floor plans

(7) The employer shall provide a Director and any other prescribed agencies with a floor plan of the work place showing the names of all hazardous materials and their location.

Hazardous
material,
labels and
data sheets

22b.—(1) An employer shall ensure that,

- (a) every container present in the work place that contains hazardous material is and remains labelled in the prescribed manner;
- (b) an unexpired material safety data sheet, containing such information and in such form as may be prescribed, is obtained or prepared by the employer; and
- (c) labels and material safety data sheets required by clauses (a) and (b) are available in English and such other language or languages as may be prescribed.

(2) No person shall remove, alter or deface a label described in clause (1) (a) that is on a container. Prohibition

(3) An employer shall ensure that a hazardous material is not used at a work place unless the prescribed requirements concerning labelling, material safety data sheets and worker instruction and training have been complied with. Idem

(4) An employer shall advise a Director in writing if the employer, after making reasonable efforts, is unable to obtain a label or material safety data sheet required by subsection (1). Notice to Director

(5) A material safety data sheet expires three years after the date of its publication. Expiry of material safety data sheet

22c.—(1) A copy of the most recent version of the inventory and of every unexpired material safety data sheet required by this Part in respect of hazardous materials in a work place shall be, Inventory and material safety data sheets to be made available

- (a) made available by the employer in the work place in such a manner as to allow examination by the workers;
- (b) furnished by the employer to the committee or health and safety representative, if any, for the work place or to a worker selected by the workers to represent them, if there is no committee or health and safety representative;
- (c) furnished by the employer to the medical officer of health of the health unit in which the work place is located;
- (d) furnished by the employer to the fire department which serves the location in which the work place is located; and
- (e) filed by the employer with a Director.

(2) The medical officer of health, at the request of any person, shall request an employer to furnish a copy of the most recent version of the inventory or of an unexpired material safety data sheet, as the case may be. Public access

(3) At the request of any person, the medical officer of health shall make available to the person for inspection a copy of any inventory or material safety data sheet requested by Idem

the person and in the possession of the medical officer of health.

Idem

(4) A medical officer of health shall not disclose the name of any person who makes a request under subsection (2) or (3).

Additional
requirement

(5) In addition to the requirements imposed under subsection (1), a copy of every material safety data sheet required by subsection (1) shall be made available by the employer in the work place in such a manner that it is readily accessible by all workers who may be exposed to the hazardous material to which it relates.

Time for
compliance

(6) The Lieutenant Governor in Council may by regulation establish dates by which employers in any industry or class of industry must provide inventories or inventories and material safety data sheets under clauses (1) (c), (d) and (e) and an employer to whom the regulation applies shall have until that date to comply with those clauses unless the medical officer of health, the fire department or a Director requests the employer to provide a copy of the most recent version of the inventory or of an unexpired material safety data sheet.

Assessment
for hazardous
materials

22d.—(1) Where so prescribed, an employer shall assess all biological and chemical agents produced in the work place for use therein to determine if they are hazardous materials.

Assessments
to be made
available

(2) The assessment required by subsection (1) shall be in writing and a copy of it shall be,

- (a) made available by the employer in the work place in such a manner as to allow examination by the workers;
- (b) furnished by the employer to the committee or health and safety representative, if any, for the work place or to a worker selected by the workers to represent them, if there is no committee or health and safety representative.

Confidential
business
information

22e.—(1) Where, but for this section, an employer would be required under this Part to disclose information that the employer considers to be confidential business information in an inventory, label or material safety data sheet, the employer may, in accordance with the regulations, file a claim with the claims board for an exemption from the requirements.

(2) The claims board, in accordance with its procedures, shall determine the validity of every claim filed under subsection (1). Determination of claim

(3) The employer or any worker of the employer or any trade union representing the workers of the employer may, in accordance with the regulations, appeal a determination made under subsection (2). Appeal

(4) The claims board, in accordance with its procedures, shall determine every appeal under subsection (3). Determination of claim

(5) Information that an employer considers to be confidential business information is exempt from disclosure from the time a claim is filed under subsection (1) until the claim is finally determined and thereafter, if the claim is found to be valid. Effect of claim

(6) Where the Parliament of Canada establishes an agency that has the power to determine whether information related to any hazardous material is confidential business information, the Lieutenant Governor in Council may by regulation name that agency as the claims board and adopt its procedures for the purposes of this section. Federal agency

(7) In this section, "claims board" means an agency designated by the regulations as the claims board. Definition

22f.—(1) A person who distributes or supplies, directly or indirectly, or manufactures, produces or designs a thing for use in a work place that causes, emits or produces a hazardous physical agent when the thing is in use or operation shall ensure that such information as may be prescribed is readily available respecting the hazardous physical agent and the proper use or operation of the thing. Hazardous physical agents

(2) Where an employer has a thing described in subsection (1) in the work place, the employer shall ensure that the information referred to in that subsection has been obtained and is, Duty of employer

- (a) made available in the work place for workers who use or operate the thing or who are likely to be exposed to the hazardous physical agent; and
- (b) furnished by the employer to the committee or health and safety representative, if any, for the work place or a worker selected by the workers to represent them, if there is no committee or health and safety representative.

Notices

(3) An employer to whom subsection (2) applies shall post prominent notices identifying and warning of the hazardous physical agent in the part of the work place in which the thing is used or operated or is to be used or operated.

Idem

(4) Notices required by subsection (3) shall contain such information as may be prescribed and shall be in English and such other language or languages as may be prescribed.

Instruction
and training

22g.—(1) In addition to providing information and instruction to a worker as required by clause 14 (2) (a), an employer shall ensure that a worker exposed or likely to be exposed to a hazardous material or to a hazardous physical agent receives, and that the worker participates in, such instruction and training as may be prescribed.

Consultation

(2) The instruction and training to be given under subsection (1) shall be developed by the employer in consultation with the committee or health and safety representative, if any, for the work place.

Review

(3) An employer shall review, in consultation with the committee or health and safety representative, if any, for the work place, the training and instruction provided to a worker and the worker's familiarity therewith at least annually.

Idem

(4) The review described in subsection (3) shall be held more frequently than annually, if,

- (a) the employer, on the advice of the committee or health and safety representative, if any, for the work place, determines that such reviews are necessary; or
- (b) there is a change in circumstances that may affect the health or safety of a worker.

4. Clause 28 (1) (l) of the said Act, exclusive of the sub-clauses, is repealed and the following substituted therefor:

- (l) require in writing, within such time as is specified, a person who is an employer, manufacturer, producer, importer, distributor or supplier to produce records or information, or to provide, at the expense of the person, a report or evaluation made or to be made by a person or organization having special, expert or professional knowledge or qualifications as are specified by the inspector of any process or biological, chemical or physical agents or combina-

tion of such agents present, used or intended for use in a work place and the manner of use, including,

.

5. Section 29 of the said Act is amended by adding thereto the following subsection:

(4a) In addition to the orders that may be made under subsection (4), where an inspector makes an order under subsection (1) for a contravention of section 22b or 22f or a Director has been advised of an employer's inability to obtain an unexpired material safety data sheet, the inspector may order that the hazardous material shall not be used or that the thing that causes, emits or produces the hazardous physical agent not be used or operated until the order is withdrawn or cancelled.

Additional
orders

6. Section 34 of the said Act is amended by adding thereto the following subsection:

(4) Subsection (1) does not apply so as to prevent any person from providing any information in the possession of the person, including confidential business information, in a medical emergency for the purpose of diagnosis or treatment.

Medical
emergencies

7. Subsection 41 (2) of the said Act is amended by striking out "and" at the end of paragraph 22 and by adding thereto the following paragraph:

24. prescribing by name or description any biological or chemical agent as a hazardous material and any physical agent as a hazardous physical agent.

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

9. The short title of this Act is the *Occupational Health and Safety Amendment Act, 1987*.

Short title

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